

Kansas Register

Ron Thornburgh, Secretary of State

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 Room 233-N, State Capitol
 (913) 296-3489

State of Kansas

Department on Aging

Revised Request for Proposals
for In-Home Nutrition Services

The Kansas Department on Aging is currently accepting proposals for in-home nutrition services funded by state resources for the program period July 1, 1996 through June 30, 1997. Complete proposals must be received by 5 p.m. May 10.

This notice extends the proposal due date published in the Kansas Register April 4, 1996, from May 3 to May 10.

The In-Home Nutrition Program provides at least one home delivered meal per day containing one-third of the current recommended dietary allowance five or more days a week to individuals age 60 or older who meet specific eligibility criteria. Programs may be funded in all areas of the state; however, priority will be given to maintaining services in areas currently served by the In-Home Nutrition Program. Programs funded are subject to those Kansas administrative regulations and KDOA policy issuances which may come into effect after the date of the initial agreement for this contract period.

Organizations interested in receiving a request for proposal should contact Tamara Teimann, R.D., Nutrition Specialist, Kansas Department on Aging, Docking State Office Building, Room 150, 915 S.W. Harrison, Topeka, 66612-1500, (913) 296-4986.

Thelma Hunter Gordon
Secretary of Aging

Doc. No. 017539

State of Kansas

Kansas Racing Commission

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted by the Kansas Racing Commission at 9 a.m. Friday, July 12, in the Citizens National Bank, Jennings and Main, Anthony, to consider the adoption of the following proposed regulations of the Kansas Racing Commission. This 60-day notice constitutes a public comment period for the purpose of receiving written public comments on the 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 should be made at least five working days in advance of the hearing by contacting the secretary 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 statement may be reviewed or obtained at the commission office. The following is a summary of the proposed amendments.

K.A.R. 112-5-1—Horse racetrack officials: The list of horse racetrack officials has been amended to conform to

the new licensing categories set out in K.A.R. 112-4-1. A new category has been created for backup positions to each of the horse racetrack official positions, and anyone working as a backup will be licensed as such. A new subsection (f) has been added that allows for a substitute to be appointed by the organization licensee and approved by the stewards in the event an official is unable to serve at a particular performance. A new subsection (g) sets out the procedure to be used when a position becomes permanently vacant and a conditional appointment is made pending a satisfactory background investigation.

Economic impact: The economic impact of this regulation cannot be measured.

K.A.R. 112-6-1—Greyhound racetrack officials: The list of greyhound racetrack officials has been amended to conform to the new licensing categories set out in 112-4-1. A new category has been created for backup positions to each of the greyhound racetrack official positions, and anyone working as a backup will be licensed as such. A new subsection (f) has been added that allows for a substitute to be appointed by the organization licensee and approved by the judges in the event an official is unable to serve at a particular performance. A new subsection (g) sets out the procedure to be used when a position becomes permanently vacant and a conditional appointment is made pending a satisfactory background investigation.

Economic impact: The economic impact of this regulation cannot be measured.

K.A.R. 112-10-35—Testing: This regulation deals with the testing of greyhounds and clarifies that the trainer, owner or authorized agent shall be the person or persons to witness and confirm the taking of test samples and sign the confirmation card. An underage authorized agent of the trainer or owner may witness the collection of the test, but the trainer or owner is ultimately responsible for the results of the tests. The amendment to this regulation eliminates blood samples being taken and limits testing to urine or other test samples except as provided in subsection (f).

Economic Impact: There are no costs anticipated as a result of the regulation or the proposed amendment.

K.A.R. 112-11-20. Racetrack facility safety standards, greyhound race meets: The safety and security standards set out in this regulation generally establish qualifications for security guards at racetracks, and define procedures and facilities for safety of patrons and racing animals. The proposed amendment in subsection (a)(10) allows the commission to approve the use of chemicals to be used on the racetrack surface if it is in the best interest of racing to do so.

Economic impact: The organization and management licensees would ultimately bear the expense of purchasing chemicals to be used on the racetrack surface if approved by the commission. However, the amendment to this regulation which restricts the use of chemicals for use on the racetrack surface is not predicted to generate any new expenses for the licensees.

Myron Scafe
Executive Director

Doc. No. 017548

State of Kansas

City of Wichita
Human Services Department

Notice of JTPA Plan Modification

The Job Training Partnership Act (JTPA) provides funds to states to establish programs that prepare youth and adults for entry into the labor force. Under JTPA, each state is divided into Service Delivery Areas (SDAs). Within each SDA, a governing structure is established between local elected officials and private and public sector representatives who are appointed to a Private Industry Council (PIC). This governing structure is responsible for policy, program development and oversight of programs generated within the SDA. The PIC of SDA IV, which comprises Butler, Cowley, Harper, Kingman, Sedgwick and Sumner counties in South Central Kansas, has selected the City of Wichita, Kansas, to be the grant recipient and program administrator for Title II-A, II-B and II-C Programs in SDA IV. The PIC of SDA IV also has selected the Kansas Department of Human Resources (KDHR) to be the grant recipient and program administrator for Title III Programs in SDA IV.

Section 104(a) of JTPA specifies that no funds appropriated under Title II for any fiscal year may be provided to any SDA under this act, except pursuant to an approved job training plan. Section 105(a)(2) of the act mandates publishing any proposed modification of that job training plan or summary thereof. Section 161(b) of the act allows funds obligated for any program year to be spent during that program year and the two succeeding program years.

In accordance with Sections 104 and 105 of JTPA, the Private Industry Council of Service Delivery Area IV, Inc. hereby gives public notice of its intention to modify its current Job Training Plan to incorporate the 1996 Program Year (PY). The proposed plan modification will modify the Title II-A, Title II-B, Title II-C, Title III, and the local Wagner-Peyser job training programs. Summaries of each follow.

Title II-A Plan Subpart Summary

The purpose of the Title II-A Job Training Program is to prepare adults (age 22 or older) who are economically disadvantaged or face serious barriers to employment, for participation in the labor force by increasing their occupational and educational skills, resulting in improved long-term employability, increased employment and earnings and reduced welfare dependency.

The PY 1996 Title II-A Program begins July 1, 1996. The PY 1996 SDA IV allocation is \$796,330, and an estimated 302 adults will be served in SDA IV with those funds. Program activities may include on-the-job training, academic enrichment training, classroom occupational training, work experience, supportive services, counseling and inter-agency coordination of services.

Title II-B Plan Subpart Summary

The purpose of the Title II-B Program, which comprises the Summer Youth Employment and Training Programs (SYETP), is to enhance the basic educational skills of

youth, encourage school completion or enrollment in supplementary or alternative school programs and provide eligible youth with exposure to the world of work.

PY 1994 SYETP began October 1, 1994, and PY 1995 SYETP began July 1, 1995. The proposed plan modification will transfer \$31,292 from PY 1994 Direct Training Services to PY 1994 Youth Wages & Benefits and transfer \$25,000 from PY 1995 Administration to PY 1995 Youth Wages & Benefits. The revised budgets will serve an estimated 112 youth during the 1996 calendar year.

Title II-C Plan Subpart Summary

The purpose of the Title II-C Job Training Program is to improve the long-term employability of youth (age 14 through 21) who are economically disadvantaged or face serious barriers to employment; enhance the educational, occupational and citizenship skills of youth; encourage school completion or enrollment in alternative school programs; increase the employment and earnings of youth; reduce welfare dependency; and assist youth in addressing problems that impair their ability to make successful transitions from school to work, apprenticeship, the military or postsecondary education and training.

The PY 1996 Title II-C Program begins July 1, 1996. The PY 1996 SDA IV allocation is \$130,845, and an estimated 114 youth will be served in SDA IV with those funds. Program activities may include on-the-job training, academic enrichment training, classroom occupational training, work experience, supportive services, counseling and inter-agency coordination of services.

Copies of the Title II-A, II-B and II-C Plan Subpart modifications are available for review from 8 a.m. to 5 p.m., Monday through Friday, at the Human Services Department, 2nd Floor, City Hall, 455 N. Main, Wichita, KS 67202, (316) 268-4691.

Written comments and/or questions regarding the Title II-A, II-B and II-C Plan Subpart revisions should be directed to Mike Reichenberger, Planning and Administration Director, at the above location.

Title III Plan Subpart Summary

The purpose of SDA IV's Title III Economic Dislocation and Worker Adjustment Assistance ACT (EDWAA) Plan Subpart is to provide services to those individuals affected, through no fault of their own, by economic conditions such as reductions in the work force. The EDWAA Plan Subpart also allows for services to be provided to dislocated area farmers and ranchers. The EDWAA Plan Subpart states the service emphasis will be on retraining.

The PY 1996 Title III EDWAA Program begins July 1, 1996. The PY 1996 SDA IV allocation is \$898,228, and an estimated 230 program participants will be served in SDA IV with those funds. A request for a waiver to reduce the 50 percent minimum retraining cost limitation to 40 percent, for PY 1995 funds, is included in the modification.

Wagner-Peyser Plan Subpart

The Wagner-Peyser Plan Subpart describes activities to be performed by local employment and training offices. The SDA IV Wagner-Peyser Plan Subpart also identifies

the state mission of the Kansas Job Service and the location of SDA IV Job Service offices. The PY 1996 Wagner-Peyser Program begins July 1, 1996, with \$929,956 available for program operation in SDA IV.

Copies of the EDWAA and Wagner-Peyser Plan Subpart modifications are available for review from 8 a.m. to 5 p.m., Monday through Friday, at the KDHR Wichita Office, 402 E. 2nd, P.O. Box 877, Wichita, KS 67201-0877, (316) 266-8613.

Written comments and/or questions regarding the EDWAA and Wagner-Peyser Plan Subpart modifications should be directed to Fred Johnson, SDA IV Area Supervisor, at the above location.

Mike Reichenberger
Planning and Administration Director

Doc. No. 017516

State of Kansas

Legislature

Legislative Bills Introduced

The following numbers and titles of bills and resolutions were recently introduced by the 1996 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, Topeka 66612, (913) 296-4096.

Bills introduced April 4-5:

House Resolutions

- HR 6023, A resolution honoring Delbert Crabb.
- HR 6024, A resolution making specific exceptions to the limitations prescribed by subsection (k) of Joint Rule 4 of the Senate and House of Representatives.

Senate Bills

SB 756, by Committee on Ways and Means: An act relating to railroad rights-of-way leased by cities; concerning the rental payments; amending K.S.A. 12-612a and repealing the existing section.

Senate Resolutions

- SR 1841, A resolution recognizing Kansas Mark Henry Reynolds.
- SR 1842, A resolution supporting a 1996 town hall meeting in Sedgewick County.
- SR 1843, A resolution congratulating and commending the 1996 Kansas Master Teachers.
- SR 1844, A resolution congratulating and commending Billy Westfield on being recognized as 1996 Kansas Outstanding "Overcomer" Student and current finalist for National "Overcomer" Student of the Year.
- SR 1845, A resolution congratulating and commending Luran Marie Cowdrey for winning the 1996 Kansas Junior Miss competition.
- SR 1846, A resolution making specific exceptions to the limitations prescribed by subsection (k) of Joint Rule 4 of the Senate and House of Representatives.
- SR 1847, A resolution in memory of William H. (Bill) Ward.
- SR 1848, A resolution congratulating and commending Angela Barnett on being recognized as 1996 Kansas Outstanding High School Vocational Student and current finalist for National High School Student of the Year.
- SR 1849, A resolution memorializing the life of Ron Brown.
- SR 1850, A resolution in memory of M. Jarvin Emerson.

Doc. No. 017519

State of Kansas

University of Kansas Medical Center

Notice to Bidders

Sealed bids for the items listed below will be received by the University of Kansas Medical Center, Purchasing Department, 3901 Rainbow Blvd., Kansas City, KS 66160-7162, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call Peggy Davis at (913) 588-1115 for additional information.

Friday, May 3, 1996

726292

Surgical instruments

726293

High resolution dye sublimation color printer

Barbara Lockhart
Purchasing Director

Doc. No. 017527

State of Kansas

Attorney General

Notice of Available Funding for State Crime Victims' Assistance

Grant funds are available from the State Crime Victims' Assistance Fund for fiscal year 1997. The purpose of the grant program is to provide services and assistance to victims of crime in order to speed their recovery from the financial loss, physical suffering and emotional trauma of victimization, and to assure proper and sensitive treatment of crime victims in the criminal justice process.

It is the intention of this grant program to provide as wide a range of coverage as possible to the citizens of the state. In distributing funds among urban and rural areas of the state, priority shall be given to those areas with the greatest need. Activities or services which can be funded include, but are not limited to: 24-hour crisis intervention, support or emergency services; counseling; assistance with compensation claims; community referrals; prosecutor/court related services; shelter support; criminal justice advocacy, etc.

Available funds may be awarded to units of state or local government or private not-for-profit organizations for defined program activities. Each applicant may receive up to \$25,000 in grant funds, but not more than 50 percent of the total applicant agency's budget prior to grant award.

Applications can be obtained from the Office of Attorney General Carla J. Stovall, 2nd Floor, Kansas Judicial Center, 301 W. 10th, Topeka, 66612-1597, (913) 296-2215 or 1-800-828-9745.

All grant applications are to be postmarked by Friday, May 17. No applications will be accepted after that date.

Carla J. Stovall
Attorney General

Doc. No. 017532

(Published in the Kansas Register April 18, 1996.)

U.S. Environmental Protection Agency**Request for Comments on Hazardous Waste Emission Test Burn**

The U.S. Environmental Protection Agency (EPA) Region VII, 726 Minnesota Ave., Kansas City, KS 66101, is seeking public comment on the trial burn plan for the Hercules Cement Company, d/b/a Heartland Cement Company (Heartland), in connection with the hazardous waste permit application review process. Heartland is located to the southeast of Independence, Kansas, in Montgomery County.

Heartland produces Portland cement in four 175-foot-long rotary kilns by a dry process. The primary fuel fed to each kiln is hazardous waste-derived fuel. The hazardous waste-derived fuel consists of liquid waste fuel and containerized solid fuel. Coal, coke and natural gas also may be fed to the kilns as supplementary fuels.

In the process to produce Portland cement, limestone is mixed with other raw materials containing aluminum, iron and silica, and is ground to a very fine powder in a raw mill. The powder is then fed into the cold end of each kiln. As the material travels through the kilns, it must reach 2600 degrees Fahrenheit. These raw materials are burned with hazardous waste, which is fed into the hot end of each kiln, to chemically produce cement clinker. The clinker is cooled and later ground together with gypsum to produce the cement product. The plant has the capacity to produce approximately 400,000 tons/year of Portland cement. Particulate matter emissions from the four kilns are collected in an air pollution control device and the very small quantity of uncollected particulate matter is emitted to the atmosphere.

Heartland has satisfied the interim status Resource Conservation and Recovery Act (RCRA) requirements to conduct hazardous waste combustion. Heartland has applied for a RCRA permit, and the trial burn plan is part of that permit application. The trial burn plan describes the emission testing that will be conducted at Heartland to assure that Heartland is in compliance with RCRA combustion standards and to make certain the facility poses no threat to human health and the environment. Information obtained from the trial burn will be used to establish operating conditions, which will become part of any RCRA permit.

The EPA is reviewing the trial burn plan for adequacy. If the trial burn plan is approved, emissions testing will probably take place late in the spring of 1996. In an effort to solicit public comment, the EPA is making the trial burn plan and quality assurance project plans available to the public for a 30-day period beginning April 22.

A copy of the trial burn plan is available for public review at the following locations: Independence Public Library, 220 E. Maple, from 9 a.m. to 8 p.m. Monday and Wednesday, 9 a.m. to 6 p.m. Tuesday and Thursday, noon to 5 p.m. Friday, and 9 a.m. to 1 p.m. Saturday, (316) 331-3030; or Docket Area, U.S. EPA Region VII, Information Resource Center, 726 Minnesota Ave., Kansas City, from 10 a.m. to 3 p.m. Monday through Friday (or by appointment), (913) 551-7241.

Comments related to the trial burn should be directed in writing to Tim Foster, EPA Region VII. Comments should be submitted prior to the expiration of the public comment period May 20.

The EPA will consider relevant comments from the public in addition to sending its own comments to Heartland at the end of the public comment period. Heartland will then modify the trial burn plan to accommodate these comments and provide the EPA and the Kansas Department of Health and Environment with a copy of the final trial burn plan for approval.

A draft of the permit decision also will be made available to the public for comment. The public will have the opportunity to comment on the draft permit decision either during the public comment period or during a public hearing. Relevant comments the EPA receives from the public will be considered when the final permit decision is made.

Further information can be obtained by contacting Tim Foster at (913) 551-7398 or the EPA Region VII's toll free Environmental Action Line, 1-800-223-0425.

JoAnn M. Heiman
Chief, RPCB Section

Doc. No. 017533

State of Kansas**Department of Administration
Division of Purchases****Notice to Bidders**

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, 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, April 29, 1996

- 31739
Kansas State University—Satellite transponder time
- 31756
University of Kansas—Paper recycling
- 31774
Department of Wildlife and Parks—Aggregate (Nebo, Brown and Atchison state fishing lakes)
- 31776
Department of Commerce—Printed plastic bags
- 31777
Wichita State University—Janitorial Supplies
- 03659
Department of Transportation—Aggregate for slurry seal (Scott City)

Tuesday, April 30, 1996

- A-7861
Kansas State University—New primary feeder to Calvin Hall, Building C
- 31770
University of Kansas Medical Center—Provide courier services
- 31773
State Corporation Commission—Court reporting services

03660

Kansas State University—Sweep plow tillage tool, Hays

03661

Department of Social and Rehabilitation Services—Handicapped van modification

03662

Lansing Correctional Facility—Vertical platform lift (ADA approved)

03663

University of Kansas—Fiberglass catwalks

Wednesday, May 1, 1996

A-7868

Department of Corrections, Topeka Correctional Facility—Roof replacement, "A" and "B" dormitories, central unit

31588

Statewide—Examination gloves (medical)

03672

University of Kansas Medical Center—Ophthalmic scan system

Thursday, May 2, 1996

03675

Wichita State University—Bath vanities and countertops

03687

Kansas State University—High performance liquid chromatography system

03688

Kansas State University—Bending beam rheometer

Friday, May 3, 1996

03684

Kansas State University—Skid steer loader

03685

Department of Wildlife and Parks—Construct intake structure, Woodson State Fishing Lake

Monday, May 6, 1996

31769

University of Kansas—Lawn care, Regents Center at KU, Overland Park

Tuesday, May 7, 1996

A-7762

University of Kansas—Replace leaking panels, Nunemaker Center

A-7873

University of Kansas Medical Center—Various roof replacements

Wednesday, May 8, 1996

A-7847

Osawatomie State Hospital—Roof structure for exterior stairway, Adair "C" Building

A-7869

Fort Hays State University—Miscellaneous A.D.A. and door modifications, Wiest/McMindes Halls

31765

Statewide—Concealable body armor

Thursday, May 9, 1996

A-7876

Department of Corrections—Upgrade of the mechanical system at the Support Services Building, Lansing

Tuesday, May 14, 1996

A-7798

Kansas Soldiers' Home—New fire alarm system, Nimitz Hall

Thursday, June 6, 1996

31772

University of Kansas Medical Center—Student nurse professional liability insurance

Request for Proposals

Monday, April 29, 1996

31783

Outplacement counseling service for the University of Kansas Medical Center

Tuesday, April 30, 1996

31779

Long distance/debit card services for Emporia State University

Wednesday, May 1, 1996

31778

IBM software advantage for all agencies of the State of Kansas

Monday, May 6, 1996

31768

Gift shop operations for the Department of Commerce and Housing, Olathe

03671

Video production for the Department of Human Resources

Thursday, May 9, 1996

31766

Instant tickets for the Kansas Lottery

31781

Switching hubs for the Department of Administration, Division of Information Systems and Communications

Wednesday, May 15, 1996

31767

Safety rest area cleaning for the Department of Transportation, Geary County

Thursday, May 16, 1996

03676

Bus service for the University of Kansas

03686

On-line card technology security and event access system for Fort Hays State University

John T. Houlihan
Director of Purchases

Doc. No. 017538

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1995 Supp. 75-4210, as amended. 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 4-22-96 through 4-28-96

Term	Rate
0-90 days	5.24%
3 months	5.06%
6 months	5.33%
9 months	5.52%
12 months	5.68%
18 months	5.97%
24 months	5.98%
36 months	6.12%
48 months	6.25%

Sally Thompson
State Treasurer

Doc. No. 017518

(Published in the Kansas Register April 18, 1996.)

City of Shawnee, Kansas

Notice to Bidders

46 TE-0028-01

City P.N. 3189

Sealed bids for Little Mill Creek Multi-purpose Trail-Blackfish Parkway to City of Lenexa will be received by the City of Shawnee, Kansas, at the office of the Shawnee City Clerk until 2 p.m. Tuesday, May 14. At that time all sealed bids will be publicly opened and read aloud. Any bid received after the designated closing time will be returned unopened.

The project is the construction of a 10-foot-wide concrete trail located off of Blackfish Parkway. The City of Shawnee and the Kansas Department of Transportation have entered into an agreement for the use of Federal Transportation Enhancement (ISTEA) funds for this project.

All bids shall be submitted in sealed envelopes addressed to the finance director of Shawnee, Kansas, and marked "Bid for Little Mill Creek Multi-purpose Trail." Copies of plans, specifications, bid documents and other contract documents are on file at the office of Shafer, Kline & Warren, P.A., 11100 W. 91st, Overland Park, Kansas. Contractors desiring the contract documents for use in preparing bids may obtain a set of such documents from Shafer, Kline & Warren, P.A., upon payment of \$30, which is not refundable.

Contractors should read and be fully familiar with all contract documents before submitting a bid. In submitting a bid, the bidder warrants that it has read the contract documents and is fully familiar therewith, that it has visited the site of the work to fully inform itself as to all existing conditions and limitations, and include in its bid a sum to cover the cost of all items of the work.

There will be no discrimination against anyone because of race, age, religion, color, sex, disability 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 city 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.

The following items must be included in the sealed envelope with the bid (if any item is missing, the bid will not be accepted):

- Bid
- 5% Bid Security—Bid Bond, Cashier's Check or Certified Check (see below)
- Required Contract Provision (RCP-1)
- Required Contract Provision Certification—Federal Funds—Lobbying (CFL-1)
- History of Debarment (NHB-1)

Each bidder shall file with its bid a bid bond, a cashier's check or a certified check drawn on any acceptable bank, made payable to the City of Shawnee, Kansas, in an amount of not less than 5 percent of the total bid, which shall be retained by the City of Shawnee until a contract for the project has been executed. Bid bonds will be returned to the unsuccessful bidders, with the exception of the second qualifying bidder, at such time as their bids are rejected. The bid deposit of the successful bidder and the second qualifying bidder will be returned when satisfactory bonds in an amount equal to 100 percent of the contract amount, required insurance certificates and other required documents shall have been furnished and the contract documents have been executed.

In the event the successful bidder is unable to execute the contract, for whatever reason, the city may exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security.

The city reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of the city clerk prior to the time and date for bid opening, provided that no bidder may withdraw its bid for a period of 30 days from the date set for the opening thereof. All bidders agree that rejection shall create no liability on the part of the city because of such rejection, and the filing of any bid in response to this invitation shall constitute an agreement of the bidder to these conditions.

City of Shawnee, Kansas
Doug Wesselschmidt, P.E.
City Engineer

Doc. No. 017487

State of Kansas

Military Disability Board**Notice of Meeting**

The Kansas Military Disability Board of the Adjutant General's Department will meet at 10:30 a.m. Saturday, May 4, in the State Defense Building, Conference Room 102, 2800 S.W. Topeka Blvd., Topeka. An agenda may be obtained by contacting Charles Bredahl, Office of the Adjutant General, (913) 274-1004.

Charles G. Bredahl
Special Assistant

Doc. No. 017529

State of Kansas

Social and Rehabilitation Services**Notice Concerning Kansas
Welfare Reform Waiver**

The Department of Social and Rehabilitation Services has submitted a request to the U.S. Department of Health and Human Services to modify the Kansas Welfare Reform Waiver currently awaiting approval from that office. Written comments or questions regarding the waiver request are to be submitted by May 20 to Diane Dykstra, Social and Rehabilitation Services, IM/EPS, Room 651-W, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, (913) 296-3349. Below is a summary of the waivers requested with the modifications included.

AFDC Waivers● **Reward Earned Income (Waiver No. 1)**

Replace the \$30 + 1/3 time-limited earnings disregard with a non-time-limited disregard equal to 40 percent of earnings after allowing for a \$90 work expense deduction: 402(a)(8)(A)(iv), 402(a)(8)(B)(ii)(I), (II), Title IV-A of the Social Security Act; 45 CFR 233.20(a)(11)(I)(C), 233.20(a)(11)(ii)(B).

● **Exempt Children's Earnings (Waiver No. 2)**

Exempt as income and resource the earnings of children in school: 402(a)(7)(A), 402(a)(7)(B), 402(a)(8)(A)(I), (v), Title IV-A of the Social Security Act; 45 CFR 233.20(a)(3)(I)(A), 233.20(a)(3)(xvii) (B), 233.20(a)(3)(xix), 233.20(a)(11)(vi).

● **Exempt One Vehicle in All Public Assistance Programs (Waiver No. 3)**

Exempt one vehicle without regard to equity or market value. Also exempt vehicles used as follows: over 50 percent of time to produce income, as a home, or specially equipped for use by a handicapped person: 402(a)(7)(B)(I), Title IV-A of the Social Security Act; 45 CFR 233.20(a)(3)(I)(B)(2).

● **Remove the Restrictions on Two-parent Family Participation in the AFDC Program (Waiver No. 7)**

- Redefine "needy child" to exclude deprivation factors: 406(a)(1) Title IV-A of Social Security Act; 45 CFR 233.90(c)(1).
- Exclude Unemployed Parent deprivation factors of principal wage earner, unemployed for at least 30 days, works less than 100 hours per month, and six

or more quarters of work: 402(a)(41), 406(a)(1), 407(a), 407(b)(1) Title IV-A of the Social Security Act; 45 CFR 233.90(c)(1), 233.100(a), 233.100(c)(1)(iii), (iv), (v), 233.100(c)(2).

● **Allow AFDC Eligibility for Needy Pregnant Women and Fathers of the Unborn (Waiver No. 8)**

Allow pregnant women who have no other children and the father of the unborn if in the home to qualify for AFDC beginning the first month of pregnancy if otherwise eligible: 406(b), 406(g)(2) Title IV-A of the Social Security Act; 45 CFR 233.90(c)(2)(iv).

● **Standardize Potential Employment Requirements (Waiver No. 10)**

- Both applicants and recipients subject to potential employment requirements: 45 CFR 250.34(a)(1).
- Three month ineligibility for the household if parent or spouse fails to meet potential employment requirements. If individual other than parent or spouse violates the potential employment rule, the three-month penalty applies only to the individual: 402(a)(19)(G)(I)(H), 407(b)(1)(B)(v), Title IV-A of the Social Security Act; 45 CFR 250.34(c)(3).
- Penalty period would be three months for each occurrence, although eligibility can be re-established during the penalty: 402(a)(19)(G)(ii), Title IV-A of the Social Security Act; 45 CFR 250.34(a)(1), 250.34(c)(2).
- Modification to good cause criteria: 402(a)(19)(G)(iv)(I), Title IV-A of the Social Security Act; 45 CFR 250.35(a).
- Exclude protective payments: 45 CFR 250.34(d).

● **Standardize Work Program Requirements (Waiver No. 11)**

- Only the individual is penalized for the first two months. If the individual does not cooperate, assistance for the family is terminated for two months with no remedy. Individual must cooperate before assistance is reinstated: (402)(a)(19)(G)(I), 402(a)(19)(G)(ii), Title IV-A of the Social Security Act; 45 CFR 250.34(a)(1), 250.34(c)(2), 250.34(d), 250.34(e)(2).
- Protective payee requirement eliminated: 402(a)(19)(G)(I)(I), 402(a)(19)(G)(ii)(I), Title IV-A of the Social Security Act.

● **Expand Child Support Enforcement Requirements (Waiver No. 12)**

Parent or caretaker failing to cooperate with CSE would be removed from the plan for two months. If parent or caretaker does not cooperate with CSE within two months, assistance is terminated for two months without remedy. Individual must cooperate before assistance is reinstated. Protective payments eliminated: 402(a)(26)(B)(ii), 406(f), Title IV-A of the Social Security Act; 45 CFR 232.11(a)(3); 232.12(d); 232.13(b), 233.90(b)(4)(I).

● **Standardize Work Exemption and Good Cause Criteria (Waiver No. 17)**

Eliminate limited work requirement for caretaker of a child under age 6: 402(a)(19)(c)(iii)(II),

(continued)

402(a)(19)(c)(vi), 402(a)(19)(G)(iv)(I), 402(a)(21), Title IV-A of the Social Security Act; 45 CFR 250.35(a).

- **Exempt Interest Income (Waiver No. 20)**
Exempt up to \$50 in interest income per month in the AFDC, Food Stamp, and Medicaid programs: 402(a)(7)(A), 402(a)(31), 402(a)(39), Title IV-A of the Social Security Act; 45 CFR 233.20(a)(3)(ii), 233.20(a)(3)(xiv), 233.20(a)(3)(xviii).
- **Disregard Lump Sum Income (Waiver No. 21)**
Exempt lump payments as income and consider as a resource in the month of receipt with consideration given to timely notice requirement: 402(a)(17), Title IV-A of the Social Security Act; 45 CFR 233.20(a)(3)(I)(F).
- **Eliminate Protective Payee Requirement in Penalty Situations (Waiver No. 25)**
Eliminate protective payee requirement in situations where a parent is being removed due to a sanction: 402(a)(26)(B), Title IV-A of the Social Security Act; 45 CFR 232.11(a)(3), 232.12(d), 232.13(b), 234.60(a)(12), 234.60(a)(13), 250.34(a), 250.34(d).
- **Standardize Consideration of SSI Income (Waiver No. 32)**
Count the income and resources of adult family members who receive SSI benefits. Option given to state to also count income and resources of children who receive SSI: 402(a)(24); Title IV-A of the Social Security Act; 45 CFR 233.20(a)(1)(ii); 233.20(a)(3)(vi)(A), 233.20(a)(3)(x).
- **KansasWorks (Waiver No. 35)**
 - Eliminate the eight-week job search participation limit: 402(a)(19)(A), Title IV-A of the Social Security Act. 482(g)(2)(B), Title IV-F of the Social Security Act; 45 CFR 250.60(c).
 - Eliminate the 20 hours per week JOBS participation limit for parents with a child under 6: 402(a)(19)(C)(iii)(II), 402(a)(19)(G)(iv)(I), Title IV-A of the Social Security Act; 45 CFR 250.30(b)(9)(ii).

- **Statewideness**
Implement A.C.T. statewide except for the maintenance of control groups in selected counties if needed for evaluation purposes: 402(a)(1), 402(a)(19)(A), Title IV-A of the Social Security Act; 45 CFR 205.120(a), 205.130(a)(2), 233.10(a)(1)(iv), 233.20(a)(1)(I), 250.11.
- **Quality Control**
Allow the eligibility of and amount of benefits for families participating in A.C.T. to be reviewed against the rules of the demonstration in lieu of the rules being waived: 408(b)(1), 408(c)(1), Title IV-A of the Social Security Act.

Medicaid Waivers

- **Exempt Children's Earnings (Waiver No. 2)**
Exempt as income and resource the earnings of children in school: 1902(a)(10)(c), 1902(a)(17), 1903(f)(1), Title XIX of the Social Security Act.
- **Expand Child Support Enforcement Requirements (Waiver No. 12)**
Cooperation with CSE will be an eligibility requirement for medical assistance related to AFDC or poverty-level programs. Recipients may establish good cause for failure to cooperate. The AFDC good cause criteria will be applicable.

Any parent or caretaker who fails to cooperate with CSE will be removed from the plan for two months. During the penalty, the sanctioned individual's income and resources will be considered in full. If the adult has not cooperated within two months, assistance to the household will be terminated for two months without remedy. The individual must cooperate for assistance to be reinstated: 1902(a)(10)(C), Title XIX of the Social Security Act; 42 CFR 435.113

- **Exempt Interest Income (Waiver No. 20)**
Exempt up to \$50 in interest income per month in the AFC, Food Stamp, and Medicaid programs: 1903(f)(1), Title XIX of the Social Security Act; 42 CFR 435.832(a)(1), (2).
- **Disregard Lump Sum Income (Waiver No. 21)**
Exempt lump sum payments as income and consider as a resource in the month of receipt with consideration given to timely notice requirement: 1902(a)(17), 1903(f)(1), Title XIX of the Social Security Act.
- **Standardize Consideration of Sponsor's Income (Waiver No. 31)**
Consider the income and resources of a sponsor in determining eligibility for medical assistance: 1902(a)(17)(D), 1902(r)(2), Title XIX of the Social Security Act; 42 CFR 435.602(a).
- **Standardize Consideration of SSI Income (Waiver No. 32)**
Count the income and resources of legally responsible household members who receive SSI benefits in determining spouse or children's eligibility for medical assistance with a state option to count the income and resources of SSI children: 1902(a)(10)(C), 1902(a)(17)(B), 1902(r)(2), Title XIX of the Social Security Act.
- **Statewideness**
Implement A.C.T. statewide but maintain control groups if needed for evaluation purposes 1902(a)(1), Title XIX of the Social Security Act.
- **Quality Control**
Allow the eligibility of and amount of benefits for families participating in A.C.T. to be reviewed against the rules of the demonstration in lieu of the rules being waived: 42 CFR 431.800.

Food Stamp Waivers

- **Exempt Children's Earnings (Waiver No. 2)**
Exempt as income and resource earnings of children in school and any savings resulting from those earnings. Also, to further reduce disparity between AFDC and food stamps, exempt the earnings of an AFDC child who is over 18 but will be graduating from high school prior to 19th birthday: 7 CFR 273.8(e), 273.9(c)(7).
- **Exempt One Vehicle in All Public Assistance Programs (Waiver No. 3)**
Exempt one vehicle, regardless of equity or market value. Also exempt vehicles used for the following purposes: (1) over 50 percent of the time to produce income; (2) as a home; and (3) specially equipped for use by a handicapped person: 7 CFR 273.8(h)(1)(v), 273.8(h)(3), 273.8(h)(4)(iii), 273.8(h)(5), 273.8(h)(6).
- **Standardize Potential Employment Requirements (Waiver No. 10)**
 - Require both applicants and recipients to be subject to potential employment requirements, including volun-

- tary quit. The head of household designation would be eliminated for food stamps: 7 CFR 273.1(a), 273.7(n)(1), 273.7(n)(3)(iii), 273.7(n)(3)(iv), 273.7(n)(3)(vii).
- Three months ineligibility for the household if the parent or spouse fails to meet potential employment requirements. If individual other than parent or spouse violates the potential employment rule, the three-month penalty applies only to the individual: 7 CFR 273.1(d), 273.7(g)(1)(I), 273.7(n)(1)(v), 273.7(n)(1)(vi), 273.7(n)(1).
 - Modifications to good cause criteria. 7 CFR 273.7(n)(1), 273.7(n)(3)(iii), 273.7(n)(3)(iv), 273.7(n)(3)(vii).
 - Count as available in full to remaining household members the income and resources of the individual who is sanctioned; however, his/her needs would not be included in the benefit standard: 7 CFR 273.1(b)(2), 273.11(c)(1).
- **Standardize Work-Program Requirements (Waiver No. 11)**
Only the individual is penalized for the first two months. If individual does not cooperate within two months, assistance for the family is terminated for two months without remedy. The individual must cooperate before assistance is reinstated: 7 CFR 273.1(d), 273.7(g)(1) and 273.7(h).
 - **Expand Child Support Enforcement Requirements (Waiver No. 12)**
Cooperation with CSE will be an eligibility requirement for food stamp recipients. Recipients may establish good cause for failure to cooperate. The AFDC good cause criteria will be applicable. Failure to cooperate will result in the individual being penalized for two months. If the individual does not cooperate within two months, assistance to household is terminated for two months without remedy. The individual must cooperate before eligibility is reinstated.
 - **Standardize Work Exemption and Good Cause Criteria (Waiver No. 17)**
 - Persons under 19 must attend school full time to be exempt.
 - Exemption for care of an incapacitated person is limited to care for a person in the household.
 - Exemption for care of a child under age 6 is changed to care for a child under age 3.
 - Eliminate receipt of Unemployment Compensation as an exemption.
 - Add an exemption for remoteness.
 - Full-time employment defined as 30 hours and wages at least equal to the federal minimum wage x 30 hours.
 - Eliminate exemption for students over 18:
 - 7 CFR 273.7(a), 273.7(b)(I), 273.7(b)(iv), 273.7(b)(vii), 273.7(I)(2)(iii).
 - **Exempt Interest Income (Waiver No. 20)**
Exempt up to \$50 in interest income per month in the AFDC, Food Stamp, and Medicaid programs: 7 CFR 273.9(b)(2)(v), 273.9(c).
 - **Exempt Educational Income (Waiver No. 22)**
Exclude as income and cash asset any grant, scholarship or loan given for educational purposes: 7 CFR 273.9(c)(3), 273.9(c)(4), 273.9(c)(10)(xi).
 - **Standardize Consideration of Sponsor's Income (Waiver No. 31)**
Allow a maximum earned income disregard of \$175 when calculating countable sponsor income and eliminate the exemption of an individual sponsored by an organization or group. This creates consistency with AFDC regulations: 7 CFR 273.11(j)(2)(I)(A), 273.11(j)(3)(ii).
 - **KansasWorks (Waiver No. 35)**
Eliminate eight-week JOB search participation limit: 7 CFR 273.7(f)(1)(I)
 - **Alcohol and Substance Abuse Screening (Waiver No. 36)**
Allow alcohol and substance abuse screening and treatment as an activity of the Food Stamp Employment and Training Program: 7 CFR 273.7(b)(1)(vi).
 - **Statewideness**
Implement A.C.T. statewide but maintain control groups if needed for evaluation purposes: Food Stamp Act as amended Section 17 (2026); 7 CFR 272.3(c).
 - **Quality Control**
Allow the eligibility of and amount of benefits for families participating in A.C.T. to be reviewed against the rules of the demonstration in lieu of the rules being waived: 7 CFR 275.10(a), 275.12(a).
- #### Jobs Waivers
- **KansasWorks (Waiver No. 35)**
 - Eliminate eight-week job search limit: 402(a)(19)(A), Title IV-A of the Social Security Act; 482(g)(2)(B), Title IV-F of the Social Security Act; 45 CFR 250.60(c).
 - Eliminate the 20-hour per week JOBS participation limit for parents with a child under 6: 402(a)(19)(C)(iii)(II), 402(a)(19)(G)(iv)(I), Title IV-A of the Social Security Act, 482(d)(1)(B), Title IV-F of the Social Security Act, 45 CFR 250.34(a)(I); 250.34(c)(2); 250.34(d); 250.34(e)(2); 250.47(a).
 - **Alcohol and Substance Abuse Screening (Waiver No. 36)**
Allow alcohol and substance abuse screening and treatment as a JOBS activity with penalty for noncompliance: 402(a)(19)(A), 402(a)(19)(G), Title IV-A of the Social Security Act; 45 CFR 250.34(a)(1), 250.34(c)(2), 250.34(d), 250.34(e)(2); 250.47(a).
 - **Statewideness**
Implement the JOBS provisions of A.C.T. statewide except for: (1) the maintenance of control groups in selected counties for evaluation purposes; (2) pilot the KanLearn Program; and (3) limit custodial parent participation requirements to teen parent program counties: 402(a)(1), 402(a)(19)(A), Title IV-A of the Social Security Act; 45 CFR 250.11.
 - **Quality Control**
Allow the eligibility of and amount of benefits for families participating in A.C.T. to be reviewed against the rules of the demonstration in lieu of the rules being waived: 7 CFR 275.10(a), 275.12(a).

Rochelle Chronister
Secretary of Social and
Rehabilitation Services

Doc. No. 017515

State of Kansas

Department of Wildlife
and Parks

Notice to Bidders

The concession contract at Cedar Bluff State Park is currently open for bid. Interested individuals or parties should contact Allen Stoops, Purchasing Agent, Operations Office, Kansas Department of Wildlife and Parks, 512 S.E. 25th Ave., Pratt, 67124, for additional information. Final bids are due by 5 p.m. Friday, May 17.

Steven A. Williams
Secretary of Wildlife
and Parks

Doc. No. 017528

State of Kansas

Kansas State University

Notice to Bidders

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 532-6214 or fax (913) 532-5632 for additional information.

Monday, April 29, 1996
#60137

¾-ton heavy duty truck

William H. Sesler
Director of Purchasing

Doc. No. 017520

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Armour Swift-Eckrich has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install a boiler and four new cook ovens to increase capacity of their cooking and packaging capabilities. The four new ovens will be used for the cooking of prepared meats and will be fueled by steam from the new boiler. Emissions of sulfur dioxide, nitrogen oxides, carbon monoxide, particulate matter and volatile organic compounds were evaluated during the permit review process.

Armour Swift-Eckrich owns and operates the stationary source located at 4612 Speaker Road, Kansas City, Kansas, at which the boiler and ovens are to be installed.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the Department of Air Quality (DAQ), Wyandotte County Health Department, 619 Ann Ave., Kan-

sas City, Kansas, and at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka. To obtain or review the proposed permit and supporting documentation, contact David Shultz, (913) 573-6700, at the DAQ offices, or Connie Carreno, (913) 296-6422, at the KDHE central office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to David Shultz, DAQ, Wyandotte County Health Department, 619 Ann Ave., Kansas City, KS 66101. Written comments must be received by the close of business May 20 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, by the close of business May 20 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017525

State of Kansas

State Corporation Commission

Request for Comments

The Midland Railway Historical Association and Santa Fe Trails Historical Society (present joint holders of the railroad certificate) have filed an application with the State Corporation Commission April 8, 1996, seeking authority to (1) transfer the joint authority to sole ownership by the Midland Railway Historical Association; (2) transfer to Fogle Quarry Company, Incorporated, Ottawa, Kansas, ownership of the southern most 2.3 miles of track beginning at the junction point with The Atchison, Topeka and Santa Fe Railway track in North Ottawa and proceeding northeastward to the rock quarry; and (3) retain trackage rights to operate over the most southern segment of track being transferred herein.

Transferor Midland Railway Historical Association was authorized to operate as a railroad common carrier of passengers by order of the commission served December 5, 1986, in Docket Number 152,198-R, providing certain conditions were met by the applicant.

The commission is now accepting comments and/or protests from interested parties stating their position on this partial transfer. All pleadings should be filed with the Director of the Transportation Division, State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, by May 8. At the end of this comment/protest period, the commission will review all pleadings to determine the appropriate action to be taken.

Judith McConnell
Executive Director

Doc. No. 017530

State of Kansas

Board of Technical Professions

Notice of Meeting

The State Board of Technical Professions will meet Friday, April 26, at the Shawnee Country Club, 913 S.E. 29th, Topeka. The Professional Engineer and Land Surveyor Committee will meet in the President's Room at 8:30 a.m., and the Architect and Landscape Architect Committee will meet in the PDR West Room at 9 a.m. The full board will meet at approximately 11 a.m. (at the conclusion of the committee meetings) in the PDR West Room. All meetings are open to the public.

Betty L. Rose
Executive Director

Doc. No. 017523

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Recycled Materials Company, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install and operate a portable rock crushing plant consisting of a primary crusher, conveyors and a power generator. Emissions of particulate matter, oxides of nitrogen, sulfur oxides, carbon monoxide and volatile organic compounds were evaluated during the permit review process.

Recycled Materials Company, Inc., Arvada, Colorado, owns and operates the portable rock crushing plant to be initially located 4 miles west of the Bonner Springs gate/exit on I-70.

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Wyandotte County Health Department, 619 Ann Ave., Kansas City, Kansas. To obtain or review the proposed permit and supporting documentation, contact Mindy Bowman, (913) 296-3414, at the KDHE central office, or Bruce Anderson, (913) 573-6700, at the Wyandotte County Health Department. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Mindy Bowman, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business May 20 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Car-

reno, Bureau of Air and Radiation, not later than the close of business May 20 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017537

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Recycled Materials Company, Inc. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install and operate a portable rock crushing plant consisting of a primary crusher, secondary crusher, screens, conveyors and generator. Emissions of particulate matter, oxides of nitrogen, sulfur oxides, carbon monoxide and volatile organic compounds were evaluated during the permit review process.

Recycled Materials Company, Inc., Arvada, Colorado, owns and operates the portable rock crushing plant to be initially located 1/4 mile north of the Williamsburg exit on I-35 (Section 12, Township 18S, Range 17E).

A copy of the proposed permit, permit application, all supporting nonconfidential documentation and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE northeast district office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Mindy Bowman, (913) 296-3414, at the KDHE central office, or Pat Simpson, (913) 842-4600, at the KDHE northeast district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Mindy Bowman, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. Written comments must be received by the close of business May 20 in order to be considered in formulating a final permit decision.

A person may request a public hearing be conducted on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business May 20 in order for the Secretary of Health and Environment to consider the request.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017536

State of Kansas

Department of Health
and EnvironmentNotice Concerning Hazardous Waste Facility
Closure/Post-closure Plan

The Kansas Department of Health and Environment has received a Resource Conservation and Recovery Act (RCRA) closure/post-closure plan from the Sinclair Oil Corporation for the final closure of the hazardous waste disposal area at the Sinclair facility in Kansas City, Kansas. This facility is located in the northwest quarter of Section 20, Township 11 South, Range 25 East, at 3401 Fairbanks in Wyandotte County. The EPA Identification Number for the facility is KSD091347898.

Sinclair intends to close a hazardous waste disposal area contaminated with metals, pesticides and solvents. The closure/post-closure plan contains the procedures that will be used to close and provide post-closure care for the contaminated area in accordance with federal and state regulations.

Title 40 Code of Federal Regulations 265.112(d)(4) and 265.118(f) require the secretary of KDHE to provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the closure/post-closure plan and request modifications to the plan not later than 30 days from the date of pub-

lication of this notice. Following the closing of the 30-day comment period, the secretary of KDHE may choose to conduct a hearing on this matter depending upon the nature of comments.

The closure/post-closure plan is available for public review until May 20 during normal business hours at the U.S. EPA Region VII Headquarters, 726 Minnesota Ave., Kansas City, Kansas; at the KDHE, Building 740, Forbes Field, Topeka; and at the Kansas City, Kansas Public Library, Argentine Branch, 2800 Metropolitan, Kansas City.

Comments regarding the plan must be submitted in writing to John W. Mitchell, Chief, Hazardous Waste Section, Bureau of Waste Management, Building 740, Forbes Field, Topeka, 66620-0001. Comments must be post-marked not later than May 20. Requests for additional information regarding this plan should be made to John Mitchell at (913) 296-1608.

A public hearing will be scheduled by KDHE if comments received indicate the need for a hearing. Any request for a hearing must be submitted to John Mitchell by May 20.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017535

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
Division 1, Wyandotte County Courthouse
710 N. 7th, Third Floor
Kansas City, Kansas

Before Brazil, C.J.; Green, J.; and Larry T. Solomon, District Judge, assigned.

Tuesday, April 23, 1996

1:00 p.m.

Case No.	Case Name	Attorneys	County
73,863	Debbie Gerhardt, Appellant, v. Kevin C. Harris, Appellee.	R. Todd Wilhelmus	Johnson
73,434	State of Kansas, Appellee, v. Robert L. Adger, Jr., Appellant.	James C. Trickey District Attorney Attorney General Thomas Jacquinet	Johnson

2:45 p.m.

72,486	State of Kansas, Appellee, v. Cecil D. Whitley, Appellant.	District Attorney Attorney General Jessica R. Kunen	Johnson
74,409	Home Builders Association, et al., Appellees, v. City of Overland Park, Appellant.	Thomas S. Busch Donald L. Moler Neil R. Shortlidge Robert J. Watson Mark Hinderks	Johnson

Summary Calendar—No Oral Argument

73,654	State of Kansas, Appellee, v. Lee A. Atkinson, Appellant.	District Attorney Attorney General Edward G. Collister, Jr.	Wyandotte
73,739	State of Kansas, Appellee, v. Franklin Holliday, Appellant.	District Attorney Attorney General David A. Reed	Wyandotte
73,737	State of Kansas, Appellee, v. 73,738 Steven D. Criswell, Appellant.	Attorney General District Attorney Thomas Jacquinet	Wyandotte
75,469	Thomas Flora, Appellant, v. Kansas Parole Board, Appellee.	Charles J. Cavenee	Leavenworth
73,901	Daniel R. Royse, Appellant, v. State of Kansas, Appellee.	Lawrence Logback County Attorney Attorney General Steven Zinn	Montgomery
73,981	State of Kansas, Appellee, v. Andrew P. Smith, Appellant.	County Attorney Attorney General Julie Gorenc	Reno

Wednesday, April 24, 1996

Case No.	Case Name	Attorneys	County
72,886	In the Matter of the Marriage of Lee Huang Bare, Appellant, and Charles E. Bare II, Appellee.	Richard F. Stevenson Ronald W. Nelson James P. O'Hara	Johnson
74,619	Guardian Lighting Controls, Inc., Appellant, v. Airport Systems International, Inc., Appellee.	Steve A. Matalone II J. Nick Badgerow	Johnson
72,657	In the Matter of the Marriage of Emily Louise Snyder, Appellee, and Dennis W. Snyder, Appellant.	Barry R. Grissom Jennifer Harris Dennis W. Snyder, pro se	Johnson
10:45 a.m.			
73,894	Patricia P. Keeney, Appellant, v. Mariann Thayer, Appellee.	J. Steven Schweiker	Johnson
73,592	Farmers Group, Inc., et al., Appellees, v. 74,242 75,086 Terry G. Lee, Appellant.	Michael Farley Sharon D. Hess Leonard Singer Terry G. Lee	Johnson

Kansas Court of Appeals
Olathe South High School, Room 200
1640 E. 151st
Olathe, Kansas

Before Royse, P.J.; Rulon, J.; and D. Keith Anderson, District Judge, assigned.

Tuesday, April 23, 1996

Case No.	Case Name	Attorneys	County
74,281	Raymond Earl Morris, Appellant, v. Workforce, Inc., and Insurance Company of North America, Appellees.	Frank D. Taff Gary R. Terrill	W C Board

(continued)

73,855	Douglas W. Berg, Appellant, v. Kansas Department of Revenue, Appellee.	William L. Phalen Brian Cox	Crawford
2:15 p.m.			
72,789	Kevin Mehringer, Appellant, v. Dillion Companies, Inc., Appellee.	John G. O'Conner Barry E. Warren	Douglas
74,041	Steven C. Burke, Appellee, v. Premier Bank, Appellant.	David W. Boal Mark A. Ferguson	Wyandotte
3:30 p.m.			
73,796	In the Matter of the Marriage of Evon Lois Hedbany Race, Appellant, and Harley Leland Race, Appellee.	Brian F. Stayton Keith Martin	Johnson

Summary Calendar—No Oral Argument

72,226	State of Kansas, Appellee, v. Gerald Crutcher, Appellant.	District Attorney Attorney General Benjamin C. Wood	Johnson
73,802	Charlotte Freeman, Appellant, v. William C. Bruner, Jr., and Michael Crossley, Appellees.	Denise L. Adams Jason R. Brown James L. Sanders Tina A. Smith	Wyandotte
73,343	State of Kansas, Appellee, v. Terry Weishaar, Appellant.	District Attorney Attorney General Benjamin C. Wood	Johnson
73,676	State of Kansas, Appellee, v. John C. Clark, Appellant.	District Attorney Attorney General Edward G. Collister, Jr.	Wyandotte
73,379	State of Kansas, Appellee, v. William Vincent Martin, Appellant.	County Attorney Attorney General Mary D. Prewitt	Marshall
75,325	In the Matter of the Adoption of R.V.C., a minor child.	Henry O. Boaten Arvid V. Jacobson	Geary

Wednesday, April 24, 1996

Case No.	Case Name	Attorneys	County
74,963	Marion Rex Strunk, Appellant, v. Royal Service Company, et al., Appellees.	John W. Brand, Jr. Thomas A. Hamill Thomas R. Hill B. Scott Tschudy	Douglas
73,276	State of Kansas, Appellee, v. Charles E. Eidson, Appellant.	District Attorney Attorney General Thomas Jacquinet	Johnson
10:30 a.m.			
73,881	State of Kansas, Appellee, v. Linda C. Vincent, Appellant.	District Attorney Attorney General Jean K. Gilles Phillips	Johnson
74,026	Larry S. Lawrence, Appellant, v. Smart Way Service, Hartford Accident & Indemnity Co., Appellees, and Workers Compensation Fund, Appellant.	Michael R. Wallace Robert L. Kennedy Workers Comp. Director Richmond M. Enochs	W.C. Board

Kansas Court of Appeals
Trego County Courthouse
216 N. Main
WaKeeney, Kansas

Tuesday, April 23, 1996

Before Marquardt, P.J.; Pierron, J.; and David R. Platt, District Judge, assigned.

Case No.	Case Name	Attorneys	County
74,411	In the Matter of the Estate of Verda Billips Pfeifer, deceased.	Randall W. Weller Tony A. Potter	Graham
72,633	R.G. "Bud" Walters, Jr., Appellant, v. Ward's Garden Center, Inc., Appellee.	John M. Lindner	Finney
73,287	Anthony S. Sansone, et al., Appellants, v. Commercial Development, Inc., et al., Appellees.	Leroy C. Rose John M. Lindner Stanley E. Antrim	Seward
10:45 a.m.			
73,638	State of Kansas, Appellee, v. John Dwayne Leeson, Appellant.	County Attorney Attorney General Curtis E. Bolt	Finney
74,149	Euphrasia R. Diaz, Appellant, v. Alcan Aluminum Corporation, Appellee.	Ward E. Loyd Mark E. McFarland	Grant

Before Gernon, P.J.; Pierron, J.; and David R. Platt, District Judge, assigned.

1:30 p.m.			
73,769	State of Kansas, Appellee, v. Dennis Eagleburger, Appellant.	County Attorney Attorney General Randall L. Hodgkinson	Norton
71,272	State of Kansas, Appellee, v. John Heily, Appellant.	County Attorney Attorney General Hazel Haupt	Rush
2:45 p.m.			
74,272	Peggy Gassman, Appellant, v. Evangelical Lutheran Good Samaritan Society, Inc., Appellee.	Steven W. Hirsch Christopher R. Hedican	Decatur

Summary Calendar—No Oral Argument

72,720	State of Kansas, Appellee, v. Jon Marshall Mader, Appellant.	County Attorney Attorney General Benjamin C. Wood	Thomas
73,373	State of Kansas, Appellee, v. William D. Owens III, Appellant.	Debra S. Peterson Attorney General Thomas Jacquinet	Sedgwick

Wednesday, April 24, 1996

Before Marquardt, P.J.; Gernon and Pierron, JJ.

Case No.	Case Name	Attorneys	County
74,329	Steven Wickwire, Appellant, v. Governor of Kansas, et al., Appellees.	Paula D. Hofaker Karen L. Griffiths Lawrence Logback	Norton

(continued)

Summary Calendar—No Oral Argument

73,463	State of Kansas, Appellee, v. Danny Von Williams, Appellant.	County Attorney Attorney General Stephen C. Moss	Reno
74,001	State of Kansas, Appellee, v. Gary Lee Jones, Sr., Appellant.	District Attorney Attorney General Jeffrey L. Cowger	Wyandotte
73,265	State of Kansas, Appellee, v. William R. Seymore, Appellant.	County Attorney Attorney General Thomas Jacquinet	Atchison
73,675	State of Kansas, Appellee, v. Kim Edward Dodd, Appellant.	County Attorney Attorney General Sally Pokorny	Montgomery

Before Marquardt, P.J.; Gernon, J.; and David R. Platt, District Judge, assigned.

9:30 a.m.

73,517	City of Tipton, Appellee, v. Matthia Schroeder, Jr., Appellant.	Tracy J. Thull Michael S. Holland	Mitchell
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10:30 a.m.

72,524	Pink Cadillac Bar and Grill, Inc., David L. Staab and Kenny S. Quan, Appellees, v. United States Fidelity and Guaranty Company, Appellant.	Donald E. Hoffman Tom Kelley Joseph W. Jeter Marc A. Powell	Ellis
72,175	Randy Scott Craft, Appellant, v. M.L. Curtis, et al., Appellees.	Timothy A. Shultz Gene F. Anderson	Edwards

Summary Calendar—No Oral Argument

73,020	State of Kansas, Appellee, v. Kenneth E. Shaw, Appellant.	Debra S. Peterson Attorney General Michael Helvey	Sedgwick
73,532	State of Kansas, Appellee, v. Dameon D. Gilbert, Appellant.	Debra S. Peterson Attorney General Edward G. Collister, Jr.	Sedgwick

Kansas Court of Appeals
Court of Appeals Courtroom, Third Floor
Old Sedgwick County Courthouse, 510 N. Main
Wichita, Kansas

Before Lewis, P.J.; Elliott, J.; and Charles E. Worden, District Judge, assigned.

Tuesday, April 23, 1996

1:00 p.m.

Case No.	Case Name	Attorneys	County
72,108	State of Kansas, Appellee, v. Lucius Hampton, Appellant.	Debra S. Peterson Attorney General Jean K. Gilles Phillips	Sedgwick
72,771	State of Kansas, Appellee, v. Robert K. Johnson, Appellant.	Debra S. Peterson Attorney General Roger L. Falk	Sedgwick

		2:45 p.m.	
73,995	D. Kalya Grant, Appellant, v. Jedidiah T. Chappel, a minor, and Raymond Pat Andrews, Appellees.	Brian C. Wright Rex A. Sharp	Seward
73,486	State of Kansas, Appellee, v. Kimmy Jo King, Appellant.	County Attorney Attorney General Elizabeth Seale Cateforis	Reno
75,498	In the Interest of B.W.	Joseph L. McCarville III County Attorney Trish Rose	Reno

Summary Calendar—No Oral Argument

74,146	Gregory S. Lawson, Appellee, v. City of Kansas City, Appellant.	Mary Ann Kancel Paul E. Serrano, Jr.	W C Board
74,283 74,284	State of Kansas, Appellee, v. Curtis Neal, Appellant.	Debra S. Peterson Attorney General Willard L. Thompson, Jr.	Sedgwick
72,724	The Cadle Co. II, Inc., Appellant, v. Merwin P. Lewis and Sharon L. Lewis, a/k/a Sharon L. Pribbenow, Appellees.	Susan G. Saidian Martin R. Ufford	Sedgwick
75,397	State of Kansas, Appellant, v. Peggy Wearren, Appellee.	County Attorney Attorney General Eric A. Stahl	Geary
73,053	State of Kansas, Appellee, v. Donald E. Loggins, Appellant.	Debra S. Peterson Attorney General Debra Wilson	Sedgwick
74,709	Fee Insurance Agency, Inc., Appellee, v. James Snyder, Appellant.	Thomas A. Dower Kerry J. Granger	Reno

Wednesday, April 24, 1996

		9:00 a.m.	
Case No.	Case Name	Attorneys	County
74,325	Angela R. Hull, et al., Appellants, v. St. Francis Regional Medical Center and Conrado Agustin, M.D., Appellees.	Bradley J. Prochaska William Tinker, Jr.	Sedgwick
73,977	Brent A. Post, Appellant, v. Legg Co., Inc., Appellee.	Craig D. Cox John F. Hayes	Harvey
		10:45 a.m.	
74,811	Nancy Carol Beebe and Steven R. Sublett, et al., Appellants, v. Rebecca Fraktman, Ann Mar-Mason, and Dr. M. Ludlow, M.D., Appellees.	Kiehl Rathbun Donald A. Frigon Michael George	Sedgwick
72,784	State of Kansas, Appellee, v. Joe Reifer, Appellant.	Debra S. Peterson Attorney General Debra Wilson	Sedgwick

Carol G. Green
Clerk of the Appellate Courts

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

Applications set for hearing are to be heard at 9:30 a.m. May 7 before the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka.

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

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (913) 271-3196 or 271-3146. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

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

Applications set for May 7, 1996

Application for Certificate of Convenience and Necessity:

B.T. Nelson Trailers, Inc.) Docket No. 194,273 M
Nelson Moving Systems)
118 N.E. Lyman Road)
Topeka, KS 66608) MC ID No. 152969

Applicant's Attorney: William Barker, 3401 Harrison, Topeka, KS 66611

General commodities (except hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Betty K. Chaffin, dba) Docket No. 194,276 M
2 + 2 Leasing)
HCR 1, Box 3)
Sublette, KS 67877) MC ID No. 152972

Applicant's Attorney: None

General commodities (except household goods and hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Bill F. Craig) Docket No. 194,277 M
Route 1, Box 50)
Carbondale, KS 66414) MC ID No. 152973

Applicant's Attorney: None

Mobile homes,

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Todd Erichsen, dba) Docket No. 194,274 M
Erichsens Harvesting)
Route 2, Box 19)
Alta Vista, KS 66834) MC ID No. 152970

Applicant's Attorney: None

General commodities (except household goods and hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Greg Fasbender, dba) Docket No. 194,359 M
Fasbender Bros.)
410 N. Walnut)
Goddard, KS 67052) MC ID No. 153219

Applicant's Attorney: None

General commodities (except household goods and hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

John Hinger, Jr., dba) Docket No. 194,299 M
Spudz Trucking)
1105 Cherry)
Goodland, KS 67735) MC ID No. 153135

Applicant's Attorney: None

General commodities (except household goods and hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Richard Hougham) Docket No. 194,370 M
P.O. Box 183)
Weskan, KS 67762) MC ID No. 143230

Applicant's Attorney: William Barker, 3401 Harrison, Topeka, KS 66611

General commodities (except hazardous materials and household goods),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Donnell D. Martin and) Docket No. 194,275 M
Donnell Duane Martin, Jr.,)
dba)
D.D. Martin Trucking)
3507 Rocky Ford Ave.)
Manhattan, KS 66502) MC ID No. 152971

Applicant's Attorney: None

General commodities (except household goods and hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Public Service:

Northeast Transit, Inc., dba) Docket No. 185,829 M
 N.E.T., Inc.)
 P.O. Box 113)
 Onaga, KS 66521) MC ID No. 147605

Applicant's Attorney: William Barker, 3401 Harrison,
 Topeka, KS 66611

General commodities (except hazardous materials and household goods),

Between all points and places in the State of Kansas.

Application for Transfer of Certificate of Public Service:

Jerrold Unruh, dba) Docket No. 191,084 M
 J. Unruh Trucking)
 Route 1, Box 87)
 Marienthal, KS 67863) MC ID No. 150851
 TO:

J. Unruh Trucking, Inc.
 Route 1, Box 87
 Marienthal, KS 67863

Applicant's Attorney: William Barker, 3401 Harrison,
 Topeka, KS 66611

Livestock, hay, grain, feed, feed ingredients, seeds, fertilizer, salt, building and construction materials, fencing materials and machinery (restricted to transport no hazardous materials),

Between all points and places in the State of Kansas.

Application for Certificate of Convenience and Necessity:

Joye Sue Walker, dba) Docket No. 194,278 M
 Time Saver Errand Services)
 203 N. Main)
 Galva, KS 67443) MC ID No. 152974

Applicant's Attorney: None

Passengers and their luggage,

Between all points and places in the State of Kansas.

Don Carlile
 Administrator
 Transportation Division

Doc. No. 017531

State of Kansas

Department of Health and Environment

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment will conduct a public hearing at 1:30 p.m. Thursday, June 20, in the MTAA conference room, Air Terminal, Forbes Field, 6700 S. Topeka Blvd., Topeka, to consider revoca-

tion of the existing fee regulations, K.A.R. 28-16-56a and 28-16-56b, and the adoption of new regulations 28-16-56c and 28-16-56d and amended regulation 28-16-59. A hearing was conducted in February 1995 concerning proposed amendments to K.A.R. 28-16-56a and 28-16-56b, but due to a technical error in adopting the regulations, this re-hearing is necessary.

The new regulations will include additions of new terms and permit fee categories and modification of existing terms and permit fees. The most significant changes provided by the new regulations are the introduction of general permit fees, stormwater permit fees and modification of the confined feeding facility fees in conformance with K.S.A. 65-166a and 65-171d (1994 Senate Bill 800).

Summary of Proposed Regulations

K.A.R. 28-16-59 is amended to reference the new regulations, 28-16-56c and 28-16-56d, that replaced 28-16-56a and 28-16-56b. There is no economic impact as a result of this amendment.

K.A.R. 28-16-56c defines various terms including the definitions for the various types of municipal, industrial, commercial, stormwater, pretreatment, general and agricultural permits. This regulation defines the term "animal unit" for cattle, mature dairy cattle, swine, sheep or lambs, horses, turkeys, laying hens or broilers (with or without continuous waterers), and ducks.

K.A.R. 28-16-56d lists the categories of permits, including the existing categories under existing regulations 28-16-56a and 28-16-56b and the new categories. New categories include:

- Municipal Stormwater System
- Treated Cooling Water Discharge-Surface Disposal
- Pretreatment Permit
- General Permit
- Industrial Stormwater Discharge-General Permit
- Industrial Stormwater Discharge-Individual Permit
- Confined Feeding Facility
- Truck Washing Facilities for Animal Wastes

The pretreatment permit category is new, although pretreatment permits have been issued for years, at the same dollar figure, under the industrial permitting system. Similarly, there have been permits issued for confined feeding facilities for years, but the terminology and structure of the fee matrix was different. Under K.S.A. 65-171d (SB 800), all confined animal feeding operations are called confined feeding facilities and the various numbers and types of animals in confined feeding operations are converted into "animal units." Fees are based on the numbers of animal units. The old categories in K.A.R. 28-16-56b were confined cattle feedlot waste control facility, confined swine feedlot waste control facility, confined sheep feedlot waste control facility and poultry waste control facility.

Truck washing facilities for animal wastes were formerly permitted under the agricultural permitting category. This category is listed separately under the new regulations. The cost to the permittee increases.

Environmental Benefit

There is no directly measurable environmental benefit associated with these proposed regulatory changes.

General Public

The new regulations will not impose any new costs on the general public.

(continued)

Industrial and Agricultural

The new regulations will allow stormwater discharges from industries to be permitted under a general permit rather than by means of an industrial permit. This would result in a savings for those industries that do not need an individual permit for stormwater.

Confined feeding facilities not yet permitted will have a one-time \$25 registration fee. Some confined feeding facilities under 1,000 animal units having a permit will have an annual permit fee for the first time.

Truck washing facilities for animal wastes will be impacted by the new regulations. The annual fee will increase from \$30 per year to \$320 per year.

State Agencies

The adoption of the proposed regulatory changes will save KDHE administrative costs in issuing permits. For instance, general permits can be issued at one time to many dischargers of a given category having the same waste characteristics. The changes also will allow KDHE to charge permit fees for confined feeding facilities in accordance with the fees set forth in K.S.A. 65-171d. The adoption of the new regulations will increase revenue to the state general fund and help alleviate the cost of administering the permit program.

For those state agencies having permitted water pollution control facilities, there should be no significant impact.

Counties and Municipalities

The adoption of the new regulations will increase the costs for those governmental units needing stormwater permits. The four municipalities in Kansas having populations of more than 100,000 will have annual permit fees for municipal stormwater permits. Other governmental units identified as having stormwater discharges may be permitted individually or by general permit.

The time period between the publication of this notice and the scheduled hearing constitutes a public comment period for the purpose of receiving written comments prior to the hearing. All interested parties may submit written comments prior to the hearing to the Kansas Department of Health and Environment, Attn: Christine Seeds, Bureau of Water, Forbes Field, Building 283, Topeka, 66620. All interested parties will be given a reasonable opportunity to present their views orally during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to limit oral presentations to five minutes.

Copies of the proposed regulations and economic impact statements may be obtained by contacting Christine Seeds, (913) 296-5506. A copy will be available for inspection at the Kansas Department of Health and Environment, Bureau of Water, Topeka.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulatory changes in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Christine Seeds.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017522

State of Kansas

**Department of Health
and Environment**

**Notice Concerning Kansas
Water Pollution Control Permits**

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for discharges to the waters of the United States and the State of Kansas for the class of dischargers described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations, and effluent limitations of the State of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization subject to certain conditions.

Public Notice No. KS-AG-96-96/99

Name and Address of Applicant	Legal Description	Receiving Water
Belden Farms Gary Belden Route 4 Beloit, KS 67402	SW/4, Sec. 11, T8S, R7W, Mitchell County	Solomon River Basin

Kansas Permit No. A-SOMC-S020

This is an expansion facility for 936 head (375 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided for 238,400 cubic feet, which meets or exceeds KDHE 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.

If the wastewater level in the evaporation structure reaches within 4.0 feet of the top of berm, equipment to dewater the lagoon system shall be obtained through purchase, rental or custom application agreement. A copy of the acquisition or agreement shall be submitted to the department.

The operator shall submit information to the department verifying the required 10-foot separation distance between the bottom of the lagoon and groundwater. Should the required separation distance not be met, the operator shall develop a groundwater protection plan in cooperation with the department.

Name and Address of Applicant	Legal Description	Receiving Water
Randall Yost 413 29th Ave. Moundridge, KS 67107	SE/4, Sec. 11, T21S, 1W, McPherson County	Little Arkansas River Basin

Kansas Permit No. A-LAMP-S026

This is a new facility for 2,400 head (960 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE 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.

The waste management plan developed by the designer and approved by the department shall be adhered to as a condition of this permit. The plan calls for nutrient analysis of both liquids and solids with applications to meet crop nutrient needs. If wastes are not analyzed for nutrient content, wastewater shall be applied at not greater than 27,225 gallons per acre per year.

The swine facilities consist of two identical 1,200 head finishing units. The second unit will be constructed at a future date, and prior to construction the permittee shall provide written assurances to the department that additional equipment for wastewater disposal has been obtained. The equipment shall be capable of pumping and hauling 41,475 gallons per day and dispersing the accumulations over 435 acres.

Name and Address of Applicant	Legal Description	Receiving Water
Reinecker Feedlot Route 1, Box 43A Quinter, KS 67752	NW/4, Sec. 25, T11S, R27W, Gove County	Smoky Hill River Basin

Kansas Permit No. A-SHGO-B008

This is an existing facility for 900 animal units) of cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE 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.

Name and Address of Applicant	Legal Description	Receiving Water
Wilkins Farms Dwayne Wilkens 1275 Heritage Road Linn, KS 66953	NW/4, Sec. 32, T3S, R2E, Washington County	Big Blue River Basin

Kansas Permit No. A-BBWS-S038

This is a new facility for 2,400 head (960 animal units) of swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided, which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The waste management plan developed by the designer and approved by the department shall be adhered to as a condition of this permit. The plan calls for nutrient analysis of both liquids and solids with applications to meet crop nutrient needs. If wastes are not analyzed for nutrient content, wastewater shall be applied at not greater than 1.0 acre inch per acre per year and solids shall be applied at not greater than 20 ton per acre.

Dewatering equipment shall be obtained within two months after issuance of this permit through purchase, rental or custom application agreement. It shall be capable of pumping at least 220 gallons per minute and dispersing the wastewater over 80 acres of land suitable for waste application. Written verification of the acquisition of the equipment shall be submitted to the department.

Public Notice No. KS-ND-96-037/039

Name and Address of Applicant	Legal Location	Type of Discharge
Alex R. Masson, Inc. 12819 198th St. Linwood, KS 66052	NE1/4, S14, T12S, R21E, Leavenworth County	Nondischarging

Kansas Permit No. C-KS36-NO02

Facility Description: The proposed permit is for issuance of a new permit for operation of an existing nondischarging wastewater treatment facility treating domestic wastewater. Disposal of the lagoon wastewater is by percolation and evaporation. The proposed permit has a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified operator and to place warning signs along the fence.

Name and Address of Applicant	Legal Location	Type of Discharge
Leoville Utility Corp. P.O. Box 145 Leoville, KS 67742	NE1/4, S33, T5S, R28W, Decatur County	Nondischarging

Kansas Permit No. M-UR19-NO01

Facility Description: The proposed permit is for reissuance of an existing permit for operation of an existing nondischarging wastewater treatment plant treating domestic wastewater. Disposal of the lagoon wastewater is by percolation and evaporation. The proposed permit has a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified operator.

Name and Address of Applicant	Legal Location	Type of Discharge
Wheatland KOA c/o Richard McCue P.O. Box 227 Wellington, KS 67152	NW1/4, S18, T32S, R1E, Sumner County	Nondischarging

Kansas Permit No. C-AR92-NO05

Facility Description: The proposed permit is for a new permit for operation of an existing nondischarging wastewater treatment plant treating domestic wastewater. Disposal of the lagoon wastewater is by percolation and evaporation. The proposed permit has a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified operator and numerous maintenance items.

Public Notice No. KS-EG-96-037/038

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the continued use of a Class I nonhazardous waste injection well for the applicants described below.

Name and Address of Applicant	Well Location
Western Resources, Inc. Yaggy Facility P.O. Box 889 Topeka, KS 66601	
Well Identification #1 KS Permit No. KS-01-155-005	N½, SW¼, S30, T22S, R6W, Reno County, 2079' fsl and 3950' fsl from SE corner of section
Well Identification #2 KS Permit No. KS-01-155-006	Center SE¼, S25, T22S, R7W, Reno County, 1320' fsl and 1320' fsl from SE corner of section

Description: The facility is used for underground storage of hydrocarbons. The fluids to be injected are described as nonhazardous liquid waste consisting of waste brines from the underground storage operation.

(continued)

Written comments on the draft permits must be submitted to the attention of Lisa Duncan for agricultural permits, or to the permit clerk for all other permits, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620. All comments postmarked or received on or before May 17 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-96-96/99, KS-ND-96-037/039, KS-EG-96-037/038) 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 determination. 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 for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

The applications, proposed permits, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 283, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017534

(Published in the Kansas Register April 18, 1996.)

Summary Notice of Bond Sale

\$1,456,500

City of Manhattan, Kansas

General Obligation Bonds, Series 199

(General obligation bonds payable from unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated April 25, 1996, sealed bids will be received by the clerk of the City of Manhattan, Kansas (the issuer), on behalf of the governing body at City Hall, 1101 Poyntz Ave., Manhattan, KS 66502, until 4 p.m. C.D.T. May 7, 1996, for the purchase of \$1,456,500 principal amount of General Obligation Bonds, Series 199. No bid of less than 98.5 percent of the principal amount 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, except one bond in the denomination of \$6,500. The bonds will be dated May 1, 1996, and will become due on November 1 in the years as follows:

Year	Principal Amount
1997	\$ 76,500
1998	80,000

1999	80,000
2000	85,000
2001	90,000
2002	95,000
2003	95,000
2004	105,000
2005	110,000
2006	120,000
2007	40,000
2008	40,000
2009	45,000
2010	45,000
2011	50,000
2012	55,000
2013	55,000
2014	60,000
2015	65,000
2016	65,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on November 1 and May 1 in each year, beginning on November 1, 1996.

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 \$29,130 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before June 12, 1996, 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 1995 is \$185,980,937. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold but excluding temporary notes to be retired in conjunction therewith, is \$31,604,200.

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) 587-2489, or from the financial advisor, George K. Baum & Company, 100 N. Main, Suite 810, Wichita, KS 67202, Attention: Charles M. Bouly, (316) 264-9351.

Dated April 25, 1996.

City of Manhattan, Kansas

Doc. No. 017526

(Published in the Kansas Register April 18, 1996.)

Notice of Bond Sale
\$300,000
General Obligation Bonds
Series 1996
of the
City of Lyndon
Osage County, Kansas

The City of Lyndon, Osage County, Kansas, will receive sealed bids at the City Building, 230 Topeka Ave., Lyndon, until noon C.D.T. Monday, April 29, 1996, for \$300,000 par value General Obligation Bonds, Series 1996, of the city, at which time and place such bids will be publicly opened. The bids will be considered and acted upon by the city at noon C.D.T. Monday, April 29, 1996. No oral, telephone, telefax or auction bids will be considered by the governing body.

Terms of the Bonds

The bonds will be dated May 1, 1996, and will mature serially on October 1 in the years and in the amounts set forth below. The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as provided herein. The bonds will consist of fully registered certificated bonds, each in the denomination of \$5,000 or integral multiples thereof. Interest will be payable April 1, 1997, and thereafter semiannually on October 1 and April 1 of each year until their respective maturities.

The principal of the bonds will be payable at the office of the Kansas State Treasurer (the paying agent and bond registrar) to the registered owners thereof upon presentation of the bonds for payment and cancellation. Interest on the bonds will be payable by check or draft of the paying agent to the registered owners appearing on the books maintained by the bond registrar as of the 15th day of the month preceding each interest payment date (the record dates). The fees of the bond registrar for registration and transfer of the bonds will be paid by the city.

The bonds will mature serially as follows:

Maturity October 1	Principal Amount
1997	\$15,000
1998	15,000
1999	15,000
2000	15,000
2001	15,000
2002	15,000
2003	15,000
2004	15,000
2005	15,000
2006	15,000
2007	15,000
2008	15,000
2009	15,000
2010	15,000
2011	15,000
2012	15,000
2013	15,000
2014	15,000
2015	15,000
2016	15,000

Redemption of Bonds

Bonds maturing in the years 1996 through 2006, inclusive, shall become due and payable on their respective maturity dates without option of prior call for redemption and payment. Bonds maturing in the year 2007 and thereafter, at the city's option, may be called for redemption and payment prior to their respective maturities on and after October 1, 2006, at the principal amount thereof, plus accrued interest to the redemption date, without premium. Bonds called for redemption and payment may be called in whole at any time or in part on any interest payment date from and after the first date authorized for redemption. Bonds called for redemption and payment as described herein shall be redeemed at a price equal to the principal amount thereof, plus accrued interest to the date established for such redemption and payment.

If less than all of the bonds outstanding are called for redemption on a specified date, the method of selection of the bonds to be so called shall be designated by the city in such equitable manner as it may determine. If the city elects to call for redemption less than all of the bonds at the time outstanding, it shall, in the case of bonds registered in denominations greater than \$5,000, treat each \$5,000 of face value of a bond so registered as though it were a separate bond in the denomination of \$5,000.

If the city shall 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 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 shall be mailed at least 45 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 first class mail, postage prepaid. Prior to any date established for redemption and payment, the city shall deposit with the paying agent sufficient funds to pay the bonds so called for redemption and payment at the redemption price set forth above and all unpaid and accrued interest thereon to the date of such redemption and payment. Upon the deposit of said funds, and the giving of notice of such redemption and payment as aforesaid, bonds thus called for redemption shall cease to bear interest from and after the date for which such call is made.

Condition of Bids, Bid Form and Good Faith Deposit

Bids will be received for the bonds bearing such rate or rates of interest as may be specified by the bidder. The same rate will apply to all bonds of the same maturity. Each interest rate specified will be in an even multiple of $\frac{1}{8}$ or $\frac{1}{20}$ of 1 percent. The difference between the highest and lowest rates specified in any bid will not exceed two percent. No interest rate shall exceed a rate equal to the index of daily yield for the 30-year treasury bonds published by *The Bond Buyer* in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. No bid of less than par and accrued

(continued)

interest will be considered. Bids for less than the entire issue of bonds will not be considered. No supplemental interest payments will be authorized.

Bids will be submitted on the official bid form furnished by and secured from the city clerk and addressed to the City of Lyndon, Kansas, 230 Topeka Ave., Lyndon, KS 66451, Attention: Kay Jones, City Clerk, and will be plainly marked "Bond Bid." No changes to said form are authorized; changes or erasures thereon may cause rejection of any bid.

All bids must state: (1) the total interest cost to the city during the life of the bond issue; (2) the premium, if any, offered by the bidder; (3) the net interest cost of the bid; and (4) the average annual 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). All of said information shall be certified by the bidder to be correct, and the city will be entitled to rely on the certification of correctness by the bidder.

Each bid must be accompanied by a certified or cashier's check equal to 2 percent of the total par value of the bonds (\$6,000), and shall be payable to "City of Lyndon, Kansas." In the event a bidder whose bid is accepted shall fail to perform under the contract for the purchase of the bonds from the city, said deposit shall be retained by the city as liquidated damages. All checks of unsuccessful bids will be returned promptly. No interest will be paid upon the deposit made by the successful bidder.

Award of Bids

The sealed bids for the bonds will be opened publicly and only at the time and place specified in this notice. The city reserves the right to reject any and all of the bids, and to waive any irregularities. Unless all bids are rejected, the bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the city. The net interest cost to the city will be determined by subtracting the amount of the premium, if any, from the total interest cost upon all the bonds from their dated date until their respective maturities. The city will be entitled to rely on such dollar amount as stated in the bid as the basis of determining the lowest net interest cost. If there is any discrepancy between the said net interest cost and the average annual interest rate specified, the specified net interest cost will govern and the rates specified in the bid will be adjusted accordingly. If two or more proper bids providing identical amounts for the lowest net interest cost are received, the city shall determine which bid, if any, shall be accepted, and its determination therefor shall be final.

Approval and Delivery of the Bonds

The bonds, duly printed, executed and registered, will be furnished and paid for by the city. The bonds will be sold subject to the approving legal opinion of Jonathan P. Small, Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, printed on the bonds and delivered to the successful bidder as and when the bonds are delivered. Said opinion will state that in the

opinion of bond counsel under existing law and assuming continued compliance by the city with the provisions of the resolution authorizing the issuance of the bonds and the code, the interest on the bonds is exempt from federal income taxation (with specified minor exceptions) and excluded from the computation of Kansas adjusted gross income for income tax purposes.

The denomination of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners to be shown on the bonds initially delivered shall be submitted in writing by the successful bidder to the city and bond registrar not later than 4 p.m. C.D.T. May 6, 1996. In the absence of such information, the city will deliver the bonds in the denomination of each maturity registered in the name of the successful bidder.

The purchaser will be furnished with a complete transcript of proceedings evidencing the authorization and issuance of the bonds and the usual closing proofs, which will include 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 will be made in immediately available funds. Delivery of the bonds will be made to the successful bidder on or about May 15, 1996, at any bank in the state of Kansas or Kansas City, Missouri, at the expense of the city. Delivery elsewhere will be made at the expense of the purchaser. The purchase price, together with any premium and accrued interest from the date of the bonds to the date of delivery, will be paid at delivery or the good faith deposit will be forfeited.

Internal Revenue Code of 1986

Subsequent to the issuance of the bonds, the Internal Revenue Code of 1986, as amended, imposes requirements upon the city which must be met to maintain the excludability of the interest on the bonds from gross income for federal income tax purposes. The city will and does hereby covenant to comply with these requirements. Its failure to do so could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that in the event the bonds lose their tax-exempt status as a result of the city's failure to comply with the requirements imposed upon it under the code, 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 computation of alternative minimum taxable income.

The city will designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

Offering Price Certificate

To provide the issuer with information necessary for compliance with Section 148 of the Internal Revenue Code of 1986, as amended, the successful bidder will be required to complete, execute and deliver to the issuer prior to the delivery of the bonds a certificate regarding the "issue price" of the bonds (as defined in Section 148 of the code), reflecting the initial re-offering prices (excluding accrued interest and expressed as dollar prices) at which a substantial amount (i.e., 10 percent or more) of the bonds of each maturity have been or are expected

to be sold to the public. The term "public" excludes bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers. Such certificate shall state that 10 percent or more of the par amount of the bonds of each maturity have been or are expected to be sold to the public at prices not higher than such initial reoffering prices, such amount being sufficient to establish the sale of a "substantial amount" of the bonds. However, such certificate may indicate that the successful bidder will not reoffer the bonds for sale.

Purpose and Security for the Bonds

The bonds are being issued for the purpose of financing the cost of acquiring, constructing, furnishing and equipping a new public municipal swimming pool, swimming pool deck, bath house, and water pump and filtration facilities, together with all things necessary and incidental thereto, within the city. The bonds and the interest thereon will constitute general obligations of the city payable as to both principal and interest 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.

CUSIP Numbers

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

Assessed Valuation and Bonded Indebtedness

The equalized assessed valuation of the taxable tangible property, real and personal (including motor vehicles), within the city for the year 1995 for the computation of limits upon bonded indebtedness is \$2,945,289. The total bonded indebtedness of the city as of the date on which the bonds being sold are dated and including the bonds submitted herewith for bid is \$300,000.

Official Information

Additional copies of this notice of bond sale, the official bid form and further information may be received from the City Clerk, City Hall, P.O. Box 287, Lyndon, KS 66451, (913) 828-3146.

Dated April 18, 1996.

City of Lyndon
Osage County, Kansas
Kay Jones
City Clerk

Doc. No. 017540

State of Kansas

Real Estate Appraisal Board

Permanent Administrative Regulations

Article 1.—DEFINITIONS

117-1-1. Definitions. (a) "Act" means the state certified and licensed real property appraisers act.

(b) "Appraisal foundation" means the appraisal foundation established on November 30, 1987 as a not-for-profit corporation under the laws of Illinois.

(c) "Appraiser" means a state licensed or certified appraiser.

(d) "Board" means the real estate appraisal board.

(e) "Classroom hour" means 50 minutes out of a 60-minute segment. This definition reflects the traditional educational practice of having 50 minutes of instruction and 10 minutes of break time for each scheduled hour of instruction. The prescribed number of classroom hours includes time devoted to examinations which are considered to be part of the course.

(f) "Course" means any educational offering.

(g) "General classification" means the certified general real property appraiser classification.

(h) "Licensed classification" means the state licensed real property appraiser classification.

(i) "Residential classification" means the certified residential real property appraiser classification.

(j) "Provisional classification" means the state provisional licensed real property appraiser classification.

(k) "Sponsor" means any of the following entities which may request course approval from the board or offer a course approved by the board for credit toward any education requirement of the act:

- (1) Colleges or universities;
- (2) community or junior colleges;
- (3) real estate appraisal or real estate-related organizations;
- (4) state or federal agencies or commissions;
- (5) proprietary schools; and
- (6) other providers approved by the board. (Authorized by and implementing K.S.A. 58-4105; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Aug. 15, 1994; amended May 3, 1996.)

Article 6.—CONTINUING EDUCATION

117-6-3. Education; obtaining course approval. (a) To request board approval of a course to meet any education requirement of the act or portion thereof, for each course the sponsor shall:

(1) appoint a coordinator, who shall monitor the course and assure compliance with the appropriate statutes and regulations;

(2) submit all information required by the board for course approval at least 60 days before the first scheduled class session, including:

(A) A completed application for course registration on a form prescribed by the board;

(B) the procedure for maintaining attendance records;

(continued)

- (C) the proposed dates and times of the course offering;
 - (D) the total amount of the attendance fee;
 - (E) the total number of class sessions and the length of time per session;
 - (F) the total hours in the course and the number of credit hours requested;
 - (G) if approval of the course is requested pursuant to K.A.R. 117-2-1, 117-3-1 or 117-4-1, the amount of time allotted to the required examination;
 - (H) a course syllabus, including a detailed course outline and course objectives; and
- (I) an instructor resume, demonstrating that the instructor meets the qualifications in (c).
- (b) Upon notification by the board that the course has been tentatively approved, the sponsor shall submit the fee prescribed by K.A.R. 117-7-1. Written approval of the board may not be granted until the fee has been received by the board.
- (c) Each instructor shall demonstrate knowledge of the subject matter and ability to teach it effectively.
- (1) Knowledge of the subject matter which the applicant intends to teach shall be demonstrated by:
- (A) a college degree in an academic area directly related to the course; or
 - (B) at least three years of experience in the subject area directly related to the course.
- (2) The ability to teach effectively shall be demonstrated by:
- (A) within the preceding two years, completing a board-approved program for instructors which is designed to develop the ability to communicate;
 - (B) holding a current teaching certificate issued by any state department of education or an equivalent agency;
 - (C) holding a four-year undergraduate degree in education; or
 - (D) having experience teaching in schools, seminars or in an equivalent setting.
- (d) Each instructor shall:
- (1) Comply with all laws and regulations pertaining to appraiser continuing education;
 - (2) provide students with the most current and accurate information;
 - (3) maintain an atmosphere conducive to learning in a classroom; and
 - (4) provide assistance to the students and respond to questions relating to course material.
- (e) Course approvals shall expire on June 30 of each year. By May 1 a notification which includes the necessary forms shall be sent by the board informing each sponsor that an application for renewal is necessary.
- (f) The sponsor shall not advertise a course as approved unless written approval has been granted by the board.
- (g) The sponsor shall conduct each course in a classroom or other facility which is adequate to comfortably accommodate the number of students enrolled.
- (h) Each sponsor shall maintain, for at least five years, accurate records relating to course offerings, instructors, and student attendance. If a sponsor ceases operations, the coordinator appointed under (a)(1) shall be respon-

sible for maintaining the records or providing a custodian acceptable to the board.

(i) Each sponsor shall provide each student with a certificate of completion on a form prescribed by the board within seven days of the date the student completes the course. The sponsor may require payment of course tuition as a condition for completing the course. (Authorized by and implementing K.S.A. 58-4105; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 3, 1996.)

Article 8.—UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

117-8-1. Uniform standards of professional appraisal practice. The 1996 edition of the uniform standards of professional appraisal practice, as promulgated by the appraisal standards board of the appraisal foundation, copyrighted and in effect on January 1, 1996, is hereby adopted by reference. (Authorized by K.S.A. 58-4105; implementing K.S.A. 58-4121; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Feb. 6, 1995; amended May 3, 1996.)

Michael K. Haynes
Director

Doc. No. 017521

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 4.—MATERNAL AND CHILD HEALTH

28-4-558. Content of the individualized family service plan (IFSP). The IFSP shall include the following:

- (a) results of the multidisciplinary evaluation, including the unique strengths and needs of the infant or toddler, in the areas of:
 - (1) physical development, including health and nutrition, vision, hearing, and motor skills;
 - (2) cognitive development;
 - (3) communication development;
 - (4) social or emotional development; and
 - (5) adaptive development;
- (b) results of an optional family-directed assessment of the resources, priorities, and concerns of the family;
- (c) optional identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler with a disability;
- (d) outcomes expected to be achieved for the child and family including:
 - (1) criteria, procedures, and timelines used to determine the outcomes;
 - (2) the degree to which progress toward achieving the outcomes is being made; and
 - (3) whether modifications or revisions of the outcomes or services are necessary;
- (e) a statement of the natural environments in which early intervention services shall be provided, and if nec-

essary, a justification for provision of services in other than natural environments;

(f) services necessary to meet the unique strengths and needs of the child and family in order to achieve the outcomes included in the IFSP, as defined in K.A.R. 28-4-550;

(g) for each service listed, a statement including:

(1) the frequency and intensity of service including the number of days or sessions that a service shall be provided, the length of time the service shall be provided during each session, and whether the service shall be provided on an individual or a group basis;

(2) the location in which a service is provided, including:

- (A) home-based;
- (B) center-based; and
- (C) community-based; and

(3) the fact that where group settings are used, the infant or toddler with a disability shall be placed, to the maximum extent possible, in group settings with age peers without disabilities;

(4) a description of how an indirect or a direct early intervention service is provided including:

(A) by a qualified professional; and
(B) by a paraprofessional who is being supervised by a qualified professional; and

(5) the payment arrangements, if any;
(h) to the extent appropriate, other services including:
(1) medical and other services that the child needs, but are not required under Part H of IDEA;

(2) the steps that shall be undertaken to secure those services through public or private resources; and

(3) the funding sources to be used in paying for these services;

(i) the name of the family service coordinator;
(j) transition plans for the child who will become three years of age during that year, commencing at least 90 calendar days before the child's third birthday, or before that date, if the birthday is in the summer; and

(k) the signature of the parent. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-559. IFSP development meetings. (a) IFSP development meetings shall be conducted in:

(1) settings and at times that are convenient to families and mutually agreed upon; and

(2) the native language of the family or other mode of communication used by the family.

(b) IFSP development meetings shall occur within 45 calendar days after referral. The meeting notice shall be in writing.

(c) If parents are unable to attend the scheduled IFSP development meeting, the team shall not meet. The reason for cancellation of the meeting shall be documented in the child's records. The IFSP development meeting shall be rescheduled at a time mutually agreed upon by the parents and other team members.

(d) Participants in the initial IFSP and annual evaluation of the IFSP shall include the following:

- (1) the parent or parents of the child;
- (2) the family service coordinator who has been working with the family since the initial referral, or who has been chosen by the family to be responsible for the implementation of the IFSP, unless the family chooses not to have a family service coordinator;

(3) other family members as requested by the parents;
(4) an advocate or other person outside of the family as requested by the parents;

(5) the person or persons directly involved in conducting the evaluations and assessments. If unable to attend, input from these individuals shall be provided through other means, including:

- (A) participating in a conference call;
- (B) having a knowledgeable authorized representative attend; or
- (C) making pertinent records available at the meeting; and

(6) as appropriate, persons who will be providing services to the child, family, or both.

(e) Each periodic review of the IFSP shall provide for the participation of persons in paragraphs (d)(1-4) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (d) of this section. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-560. Interim individualized family service plan. (a) An interim IFSP shall be necessary and applicable if:

(1) services for Part H eligible children begin before the evaluation and assessment are completed; or

(2) an evaluation and assessment, including family assessment, cannot be completed within 45 calendar days after referral due to exceptional circumstances such as illness of the child.

(b) The interim IFSP shall be temporary and shall document the reasons why an interim IFSP is needed.

(1) The interim IFSP shall be in effect a maximum of 45 calendar days from referral.

(2) A second interim IFSP may be written in accordance with subparagraph (a)(2) of this regulation.

(3) A maximum of two interim IFSPs may be written for the same child.

(c) The interim IFSP shall include the following:

(1) the name of the family service coordinator who will be responsible for the implementation of the interim IFSP and coordination with other agencies and persons;

(2) the early intervention services that are determined to be needed immediately by the child and family;

(3) documentation by the family service coordinator of the reason or reasons that the 45-day time requirement for completing the evaluation and assessment has not been met; and

(4) parental signature indicating the parents' knowledge of, and agreement to:

(A) the desire to begin services before the evaluation and assessment are completed; or

(B) the delay in completing the evaluation and assessment. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-561. Transitions. (a) Family involvement and interdisciplinary and interagency collaboration and cooperation are required in transitions.

(b) The Part H program shall initiate transition from infant-toddler Part H services to early childhood special education Part B services by:

(continued)

(1) notifying the Part B early childhood special education program of a potentially eligible child for preschool services; and

(2) convening, with the approval of the family, a conference among the family, Part H program, and the Part B early childhood special education program at least 90 calendar days before the child's third birthday, or before that date, if the birthday is in the summer, in order to:

(A) review the child's program options, considering the many program possibilities for the period from the child's third birthday through the remainder of the school year, or before that date, if the birthday is in the summer; and

(B) establish a transition plan.

(c) Steps to be considered in developing a transition plan that is included in the IFSP shall include:

(1) discussions with, training of, or instruction for parents regarding due process rights and future services, and other matters related to the child's transition;

(2) procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in a new setting;

(3) transmission of information about the child to the local education agency, with written parental consent, including evaluation and assessment information and copies of individualized family service plans that have been developed and implemented;

(4) consideration of the financial responsibilities of all appropriate agencies;

(5) decisions about the responsibility for performing or sharing evaluations of children;

(6) development and implementation of an individualized family service plan or an individualized education program (IEP); and

(7) mechanisms to ensure the uninterrupted provision of appropriate services to the child, including the summer months. Extended school year services during the summer for a three-year-old child shall be determined by the Part B program IFSP or IEP team.

(d) Other transitions shall be considered and planned for, including:

(1) neonatal intensive care nursery (NICU) to home;

(2) home to center-based services; and

(3) any occurrence that has a major impact on the child and family such as a move, hospitalization, or personnel change.

(e) Referral shall be made from one Part H program to another. Written parent permission shall be required. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-562. Early intervention services. (a) Early intervention services for the child with developmental delays or disabilities shall be designed to meet the unique characteristics of the child and family.

(b) Early intervention services shall include the following:

(1) assisting infants and toddlers to attain age-appropriate developmental levels;

(2) enhancing the capacity of infants and toddlers with developmental delays or disabilities to reach maximum potential; and

(3) enhancing the capacity of families to meet the special needs of their infants and toddlers.

(c) Guidelines for delivering early intervention services shall include the following principles.

(1) The family shall be a partner in decision making, ongoing assessments, and all aspects of service delivery.

(2) Early intervention services shall be provided in natural environments, including the home and community settings in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(3) The frequency of services shall reflect the needs of the infant or toddler and family and shall be determined in collaboration with the family.

(4) The amount of time per session of service shall be based on the needs of the child and family, and shall vary across time as those needs change.

(5) The delivery mode shall be selected in collaboration with the family to meet the needs of the child and family.

(6) The number of children and families seen by a service provider shall vary depending on the individualized needs of each child and family unit, the length and frequency of sessions, the service delivery model, and transportation variables. Service providers shall be monitored on meeting the individualized needs of children and families.

(d) The types of early intervention services for eligible children and their families shall include, at the minimum:

(1) assistive technology devices and services, including:

(A) devices such as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities; and

(B) services that directly assist a child with a disability in the selection, acquisition, or use of an assistive technology device, including:

(i) evaluating of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(ii) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing early intervention plans and programs;

(v) training or technical assistance for a child with disabilities, or, if appropriate, that child's family; and

(vi) training or technical assistance for professionals including individuals providing early intervention services, or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities;

(2) audiology services, including:

(A) identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;

(B) determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(C) referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

(D) provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;

(E) provision of services for prevention of hearing loss; and

(F) determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices;

(3) family training, counseling, and home visits including services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development;

(4) health services including services necessary to enable a child to benefit from early intervention services, including:

(A) clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(B) consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services; and

(C) other services not including services that:

(i) are surgical in nature such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus;

(ii) are purely medical in nature such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose; or

(iii) consist of devices necessary to control or treat a medical condition, or medical-health services such as immunizations and regular "well-baby" care that are routinely recommended for all children;

(5) medical services only for diagnostic or evaluation purposes including services provided by a licensed physician to determine a child's developmental status and need for early intervention services;

(6) nursing services including:

(A) the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

(B) the provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(C) the administration of medications, treatments, and regimens prescribed by a licensed physician;

(7) nutrition services including:

(A) conducting individual assessments in:

(i) nutritional history and dietary intake;

(ii) anthropometric, biochemical, and clinical variables;

(iii) feeding skills and feeding problems; and

(iv) food habits and food preferences;

(B) developing and monitoring appropriate plans to address the nutritional needs of eligible children; and

(C) making referrals to appropriate community resources to carry out nutrition goals;

(8) occupational therapy including services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development, which shall be designed to improve the child's functional ability to perform tasks in home, school, and community settings, and shall include the following:

(A) identification, assessment, and intervention;

(B) adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(C) prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability;

(9) physical therapy including services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptations, and which shall include the following:

(A) screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(B) obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(C) providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems;

(10) psychological services including:

(A) administering psychological and developmental tests and other assessment procedures;

(B) interpreting assessment results;

(C) obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

(D) planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs;

(11) family service coordination services including assistance and services provided by a family service coordinator to an eligible child and the child's family that are in addition to the functions and activities included under K.A.R. 28-4-556;

(12) social work services including:

(A) making home visits to talk with the family and observe patterns of parent-child interaction;

(B) preparing a social or emotional developmental assessment of the child within the family context;

(C) providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;

(D) working with those problems that affect the child's maximum utilization of early intervention services in a child's and family's living situation and any center where early intervention services are provided; and

(E) identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services;

(continued)

(13) special instruction including:

(A) the design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, such as cognitive processes, adaptive skills development, and social interaction;

(B) curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes identified in the child's individualized family service plan;

(C) providing families with information, skills, and support related to enhancing the skill development of the child; and

(D) working with the child to enhance the child's development;

(14) speech-language pathology including:

(A) identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(B) referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

(C) provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills;

(15) transportation and related costs including the cost of travel, such as mileage or travel by taxi, common carrier, or other means, and other costs such as tolls and parking expenses that are necessary to enable an eligible child and the child's family to receive early intervention services;

(16) vision services including:

(A) evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(B) referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(C) communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities; and

(17) under the appropriate circumstances, the provision of respite and other family support services. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-563. Service providers. (a) Early intervention services shall be provided by qualified personnel as described in K.A.R. 28-4-564.

(b) Service providers in each area of early intervention services, to the extent appropriate, shall be responsible for:

(1) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective and coordinated provision of services in that area;

(2) training parents and other caregivers regarding the provision of those services for the child; and

(3) participating in the multidisciplinary team's assessment of a child and the child's family, and in the development of integrated outcomes for the individualized

family service plan. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-567. Procedural safeguards. (a) Parents shall be given the opportunity to inspect and review records relating to:

(1) screening, evaluations, and assessments;

(2) eligibility determinations;

(3) development and implementation of IFSPs;

(4) individual complaints dealing with the child; and

(5) any other area under this program involving records about the child and the child's family.

(b) Written notice shall be given to the parents a reasonable time before a public agency or service provider proposes or refuses to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.

(1) The notice shall be in sufficient detail to inform the parents of:

(A) the action that is being proposed or refused;

(B) the reasons for taking the action; and

(C) all procedural safeguards available under this part.

(2) The notice shall be:

(A) written in language understandable to the general public; and

(B) provided in the native language of the parents, unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent is not a written language, the public agency, or designated service provider shall take steps to ensure that:

(A) the notice is translated orally or by other means to the parents in the parents' native language or other mode of communication;

(B) the parents understand the notice;

(C) there is written evidence that the requirements of this paragraph have been met; and

(D) the mode of communication shall be that normally used by the parent, including sign language, Braille, or oral communication, if the parent is deaf, blind, or has no written language.

(4) Written parental consent shall be obtained before:

(A) conducting the initial screening, evaluation, or assessment of the child; and

(B) initiating the provision of early intervention services for the first time including at the time the initial IFSP is developed. If parents withdraw consent to a particular early intervention service after first providing consent, that service shall not be provided. Withdrawal of consent shall be in writing.

(5) The public agency shall make reasonable efforts to ensure that the parent, if consent is not given:

(A) is fully aware of the nature of the evaluation and assessment or the services that would be available;

(B) understands that the child will not be able to receive the evaluation and assessment or services unless consent is given; and

(C) files claims with private health insurance policy or policies, or for Medicaid or other payment sources.

(c) A public agency may initiate procedures to challenge a parent's refusal to consent to the child's initial evaluation and, if successful, permit the evaluation to

proceed. The local agency may initiate a complaint of neglect with the Kansas department of social and rehabilitation services if parental consent for screening, evaluation, assessment, or initiation of services is not given, and the situation warrants. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

28-4-570. Status of a child during resolution of complaints proceedings. (a) The child shall continue to receive the appropriate early intervention services currently being provided, during any proceeding involving a complaint, unless the public agency and the child's parents otherwise agree.

(b) The child shall receive those services that are not in dispute, if the complaint involves an application for initial services.

(c) The due process hearing for complaint resolution shall be the responsibility of the state lead agency. The Kansas department of health and environment shall:

(1) inform the parents of any free or low-cost legal and other relevant services available upon request of the parents; and

(2) appoint a hearing officer within one working day of notification of mediation impasse or time limitation not met or initial parent request to move directly into a due process hearing.

(d) The decision made by the hearing officer shall be final unless a party brings a civil action.

(e) Mediation and the due process hearing, if applicable, shall be concluded within 30 calendar days of the receipt of the complaint. (Authorized by and implementing K.S.A. 1994 Supp. 75-5649; effective Jan. 30, 1995; amended May 3, 1996.)

Article 33.—LABORATORIES PERFORMING TESTS FOR SYPHILIS

28-33-1. (Authorized by and implementing K.S.A. 1986 Supp. 65-1,107; effective Jan. 1, 1966; amended May 1, 1976; amended May 1, 1988; revoked May 3, 1996.)

28-33-11. (Authorized by and implementing K.S.A. 1989 Supp. 65-1,107, as amended by L. 1990, Ch. 215, Sec. 1 and K.S.A. 1989 Supp. 65-6002, as amended by L. 1990, Ch. 234, sec. 2; effective Oct. 2, 1989; amended Feb. 4, 1991; revoked May 3, 1996.)

28-33-12. General provisions. (a) Definitions.

(1) "Department" means the department of health and environment.

(2) "Division" means the division of Kansas health and environmental laboratory.

(3) "Laboratory director" means the person responsible for the professional, administrative, organizational, and educational duties of a laboratory.

(4) "Laboratory supervisor" means the individual responsible for providing day-to-day supervision of testing personnel, including the proper performance of all laboratory procedures and reporting of test results.

(5) "Testing personnel" means individuals responsible for specimen processing, test performance, and reporting test results.

(6) "Test for controlled substance" means a procedure to evaluate a specimen for compounds identified in

schedule I or II of the Kansas controlled substance act, K.S.A. 1995 Supp. 65-4105 and 65-4107.

(7) "Threshold" means a defined drug or metabolite concentration which is established at a level such that:

(A) a concentration at or above this level defines a positive result; and

(B) a concentration below this level defines a negative result.

(8) "Screening test" means a test designed to eliminate true negative specimens from further consideration. Threshold limits used for screening tests shall conform to the mandatory guidelines for federal workplace drug testing programs established by the substance abuse and mental health services administration of the department of health and human services in the federal register, volume 59, number 110, page 29921, published June 9, 1994.

(9) "Confirmatory test" means a mass spectrometry analytical procedure used to specifically identify the presence of a drug or drug metabolite. Threshold limits used for confirmatory testing shall conform to the mandatory guidelines for federal workplace drug testing programs established by the substance abuse and mental health services administration of the department of health and human services in the federal register, volume 59, number 110, page 29921-22, published June 9, 1994.

(10) "Unsatisfactory performance" means a score for any analyte of less than 80% as determined by the proficiency testing provider.

(11) "Unsuccessful participation" means unsatisfactory performance for the same analyte in two consecutive or two out of three consecutive proficiency testing events.

(12) "CLIA" means the clinical laboratory improvement amendments of 1988, Public Law 100-578, as implemented by 42 CFR part 493, issued February 28, 1992, as amended and in effect on April 24, 1995.

(b) Approval procedure.

(1) Except as provided in subsection (k), each laboratory located in Kansas seeking approval of the department to perform tests on biological specimens for controlled substances, as defined in schedule I and II of the Kansas controlled substance act, K.S.A. 1995 Supp. 65-4105 and 65-4107, shall be a laboratory which the division director or director's designee determines meets the requirements for certification under CLIA for the type and complexity of the tests being performed.

(2) (A) Except as set out in paragraph (C), each laboratory seeking approval to test biological specimens for the following drugs or their metabolites shall meet the requirements set out in paragraph (B):

- (i) amphetamines;
- (ii) cannabinoids or tetrahydrocannabinoids (THC);
- (iii) cocaine;
- (iv) opiates; and
- (v) phencyclidine.

(B) In addition to meeting requirements for certification under CLIA, each laboratory seeking approval under paragraph (A) shall:

(i) submit a complete application on standard forms furnished by the division; and

(ii) submit documents demonstrating successful performance in one testing event using a proficiency testing program approved by the division.

(continued)

(C) Any laboratory facility testing specimens for emergency diagnosis and treatment may test for drugs listed on schedule I or II of the Kansas controlled substance act, K.S.A. 1995 Supp. 65-4105 and 65-4107, without meeting the requirements of paragraph (B), if test results are used only for diagnosis and treatment.

(c) Upon receipt of a laboratory's application for approval, the laboratory shall be inspected by a representative of the division. The laboratory shall be evaluated to determine compliance using the following criteria:

(1) Screening test methods shall screen for the following five classes of drugs:

- (A) amphetamines;
- (B) cannabinoid or THC metabolites;
- (C) cocaine metabolites;
- (D) opiates; and
- (E) phencyclidine.

(2) Each test procedure shall be performed in accordance with a written protocol. The protocol shall be approved by the laboratory director. The protocol shall require that a blank control containing no drug and a control fortified with known analyte concentration greater than the threshold limit for each analyte are included with each batch of specimens tested. At least one fortified control shall be at or near the threshold cut off. The protocol shall insure that carry-over between specimens does not occur.

(3) A laboratory quality assurance program shall be developed and implemented. The program shall contain the following components:

(A) requirements for sample collection which adhere to the criteria of the division director or the director's designee, or a signed statement that the specimen was properly collected according to these criteria, if collection is at a location other than the laboratory performing the test;

(B) identification and chain of custody procedures for specimens;

(C) procedures for assuring the security of the testing area, test records, and test reports;

(D) confirmation procedures for all positive screening tests unless evidenced by documentation that:

(i) testing is performed for medical purposes on a hospital inpatient or patient currently undergoing treatment in a hospital emergency room;

(ii) testing is performed on a specimen from an individual currently under treatment for substance abuse; or

(iii) testing is performed for a correctional facility solely for the purpose of internal management of persons as defined in regulations promulgated by the secretary of corrections;

(E) a policy stating that only confirmed positive results shall be reported as positive;

(F) procedures for an internal quality control program that monitors the accuracy and precision of laboratory performance;

(G) procedures for an instrument maintenance program which, at a minimum, conforms to the manufacturer's specifications;

(H) provision for retention of all confirmed positive specimens for at least one year;

(I) policies requiring disposal of all medical wastes in accordance with K.A.R. 28-29-27; and

(J) documentation of adherence to the foregoing policies and procedures.

(4) Equipment required by the test system shall meet the specifications of the test system's manufacturer.

(5) Reagents, controls, and any other required materials for the procedure being performed shall be available and shall be stored according to the manufacturer's specifications.

(d) During the inspection by the division, one or more testing personnel may be required to demonstrate performance of the procedure under consideration.

(e) Except as provided in subsection (k), each approved laboratory located in Kansas shall be inspected by the division biennially. A follow-up inspection of any approved laboratory may be conducted by the division at any time.

(f) Each laboratory performing tests for controlled substances shall have an individual serving as laboratory director who holds one of the following credentials:

(1) current licensure as a physician in the state where the laboratory is located with additional training in pharmacology, toxicology, clinical pathology or forensic pathology; or

(2) an earned doctoral degree from an accredited institution in a chemical or biological science and at least two years of laboratory experience in chemistry or analytical toxicology.

(g) Each laboratory performing tests for controlled substances shall have an individual or individuals serving as a laboratory supervisor. Each laboratory supervisor shall hold one of the following credentials:

(1) an earned doctoral degree from an accredited institution in a chemical or biological science and at least two years of laboratory experience in chemistry or analytical toxicology; or

(2) an earned baccalaureate degree from an accredited institution in a chemical or biological science or medical technology and at least four years of experience in chemistry or analytical toxicology.

(h) Each laboratory performing tests for controlled substances shall have one or more individuals serving as testing personnel who hold one of the following credentials:

(1) an earned baccalaureate degree from an accredited institution in a chemical or biological science or medical technology; or

(2) an earned associate degree from an accredited institution in a chemical or biological science or medical technology.

(A) The laboratory director shall document that testing personnel performing tests have been adequately trained in each test procedure being performed.

(B) Records of educational credentials and training shall be maintained for each individual qualified under subsections (f), (g) or (h) of this regulation.

(i) One copy of each test requisition, test record, and test report shall be maintained in a readily retrievable manner by the laboratory for a period of two years.

(j) Proficiency program. Each laboratory shall enroll and participate in an approved external proficiency testing program for opiates, cocaine, cannabinoids or THC, amphetamines, and phencyclidine. A list of approved proficiency testing programs shall be available for the division.

(1) The results of each laboratory's performance in the proficiency testing program shall be sent directly from the approved program provider to the division.

(2) The approval for any laboratory may be revoked by the director of the division or the director's designee when the laboratory meets the criteria for unsuccessful participation in an approved external proficiency testing program.

(3) Each laboratory shall undertake an investigation and institute corrective action for all incorrect responses identified in the proficiency testing program. The laboratory shall maintain documentation of the investigation and corrective action for a period of two years.

(k) (1) Any laboratory which is not located in the state of Kansas may apply for approval. Such a laboratory shall be added to the list of approved laboratories if it meets the following conditions.

(A) The laboratory shall be certified or approved by a federal, state or independent agency having standards that are determined by the director of the division, or the director's designee, to be equivalent or more stringent than the standards set out in subsections (b) through (j) of this regulation.

(B) The laboratory seeking approval shall submit the following documentation for inspection by the department:

(i) a completed application on standard forms furnished by the division;

(ii) a report of the most recently completed on-site inspection by the approving agency addressing subsections (c) through (e);

(iii) proficiency testing results from the most recently completed proficiency challenge;

(iv) documents demonstrating that the laboratory personnel meet the qualifications set forth in subsection (f), (g), and (h); and

(v) any other documentation deemed necessary by the division.

(2) Any laboratory located in Kansas may seek approval under this subsection in lieu of following approval procedures in subsection (b) and meeting the on-site inspection requirements in subsections (c) through (e).

(l) List of approved laboratories. A current list of approved laboratories shall be maintained by the division. Each laboratory shall be approved biennially.

(m) Removal from approved list.

(1) A laboratory shall be removed from the approved list after voluntarily terminating or after notice and an opportunity for a hearing. All orders of revocation shall become final 15 days after service unless an appeal is filed in writing. All appeals shall be conducted according to the Kansas administrative procedure act, K.S.A. 75-501 et seq. and amendments thereto.

(2) Notification of removal of a laboratory from the approved list shall be made by certified mail. (Authorized by K.S.A. 1995 Supp. 65-1,107; implementing K.S.A. 1995 Supp. 65-1,107, 65-1,108, and 65-1,108a; effective Oct. 2, 1989; amended May 3, 1996.)

Article 34.—HOSPITALS

28-34-11. Laboratory. (a) Definitions.

(1) "CLIA" means Public Law 100-578 implemented by 42 CFR 493 issued Feb. 28, 1992, as in effect on Sept. 1, 1992; changes in subparts H, R and preamble to the

Feb. 28, 1992 final rule issued Aug. 11, 1992, as in effect on Sept. 1, 1992; technical corrections made in subparts T, F, A, K, C, Q, M and R issued Jan. 19, 1993, as in effect on Sept. 1, 1992; and changes in subparts M and K issued July 22, 1993, as in effect on Jan. 19, 1993.

(2) "Clinical consultant" means the individual or individuals in the laboratory defined by 42 CFR 493.1417(b), as in effect on Sept. 1, 1992 or 493.1455(b), as in effect on Sept. 1, 1992.

(b) The laboratory or laboratories performing analytical tests within the hospital shall hold a valid CLIA certificate for the type and complexity of all tests performed.

(c) Clinical laboratory services shall be available on the hospital premises or provided by a CLIA certified laboratory.

(d) An "authorized individual" shall, through written or electronic means, request all tests performed by the laboratory. The individual or individuals serving as the laboratory's clinical consultant or consultants, defined by 42 CFR 493.1417(b), as in effect on Sept. 1, 1992 or 493.1455(b), as in effect on Sept. 1, 1992, shall clearly define in writing an "authorized individual."

(e) All tissues removed shall be macroscopically examined. If deemed necessary, by written hospital policies and procedures, tissues shall then be microscopically examined. A list of all tissues which routinely do not require microscopic examination shall be developed in writing by a pathologist and approved by the medical staff of each hospital.

(f) The original report or duplicate copies of written tests reports and supporting records shall be retained in a readily retrievable form by the laboratory for a period of at least:

(1) two years for routine test reports;

(2) five years for blood banking test reports; and

(3) ten years for histologic or cytologic test reports.

(g) Facilities for procurement, safekeeping, and transfusion of blood, blood products or both shall be provided or readily available. If blood products or transfusion services are provided by sources outside the hospital, they shall be provided by a CLIA certified laboratory. The source shall be certified for the scope of testing performed or products provided.

(h) Laboratories shall release all proficiency test results to KDHE within seven days of a written request. (Authorized by and implementing K.S.A. 65-431; effective Jan. 1, 1969; amended Jan. 1, 1974; amended May 3, 1996.)

James J. O'Connell
Secretary of Health
and Environment

Doc. No. 017524

State of Kansas

Secretary of State

I, Ron Thornburgh, Secretary of State of the State of Kansas, do hereby certify that the following bills are correct copies of the original enrolled bills now on file in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal.

Ron Thornburgh
Secretary of State

(Published in the Kansas Register April 18, 1996.)

SENATE BILL No. 482

AN ACT concerning schools; relating to policies requiring expulsion of pupils for possession of weapons; designating persons who may conduct hearings on policy violations; authorizing modification of the expulsion requirement; providing for suspension or revocation of pupil transportation privileges or entitlements under certain circumstances; amending K.S.A. 72-8302 and K.S.A. 1995 Supp. 72-89a01 and 72-89a02 and repealing the existing sections.

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

Section 1. K.S.A. 1995 Supp. 72-89a01 is hereby amended to read as follows: 72-89a01. As used in this act:

(a) "Board of education" means the board of education of a unified school district or the governing authority of an accredited nonpublic school.

(b) "School" means a public school or an accredited nonpublic school.

(c) "Public school" means a school operated by a unified school district organized under the laws of this state.

(d) "Accredited nonpublic school" means a nonpublic school participating in the quality performance accreditation system.

(e) "Chief administrative officer of a school" means, in the case of a public school, the superintendent of schools and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.

(f) "Federal law" means the individuals with disabilities education act and, section 504 of the rehabilitation act, the gun-free schools act of 1994, and regulations adopted pursuant thereto to such acts.

(g) "Secretary of education" means the secretary of the United States department of education.

(h) "Weapon" means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than 1/4 ounce (E) mine, or (F) similar device; (5) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 inch in diameter; (6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled. The term "weapon" does not include within its meaning (1) an antique firearm; (2) a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes; (3) any device which is neither designed nor redesigned for use as a weapon; (4) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (5) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (6) class C common fireworks.

Sec. 2. K.S.A. 1995 Supp. 72-89a02 is hereby amended to read as follows: 72-89a02. (a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(b) To the extent that the provisions contained in article 89 of chapter 72 of Kansas Statutes Annotated do not conflict with the requirements of this act, such provisions shall apply to and be incorporated in the policy required to be adopted under subsection (a).

(c) If a pupil required to be expelled pursuant to a policy adopted under subsection (a) is confined in the custody of the secretary of social and rehabilitation services or the secretary of corrections as a result of the violation upon which the expulsion is to be based, the hearing required under the provisions of article 89 of chapter 72 of Kansas Statutes Annotated shall be delayed until the pupil is released from custody.

(d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled. If the pupil is an exceptional child, as defined in K.S.A. 72-062, and amendments thereto, the chief administrative officer conducting the hearing may modify the expulsion requirement in a manner which is consistent with the requirements of federal law.

(e) The chief administrative officer of the school in which a pupil required to be expelled pursuant to a policy adopted under subsection (a) is enrolled may modify the expulsion requirement in a manner which is consistent with the requirements of federal law. Nothing in this subsection shall be applied or construed in any manner so as to require the chief administrative officer of a school to modify the expulsion requirement of a policy adopted by a board of education pursuant to the provisions of subsection (a).

(f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the secretary of social and rehabilitation services.

(g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(h) The provisions of this section do not apply to the possession by pupils of weapons at school, on school property, or at a school supervised activity if the possession of weapons by pupils is connected with a weapons safety course of instruction or a weapons education course approved and authorized by the school or if the possession of weapons by pupils is specifically authorized in writing by the chief administrative officer of the school.

Sec. 3. K.S.A. 72-8302 is hereby amended to read as follows: 72-8302. (a) The board of education of a school district may provide or furnish transportation for pupils who reside in the school district or from any school of the school district or to or from any school of another school district attended by such pupils in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto.

(b) (1) When any or all of the conditions specified in this subsection provision exist, the board of education of a school district shall provide or furnish transportation for pupils who reside in the school district and who attend any school of the school district or who attend any school of another school district in accordance with the provisions of an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto. The conditions which apply to the requirements of this subsection provision are as follows:

(1) (A) The residence of the pupil is inside or outside the corporate limits of a city, the school building attended is outside the corporate limits of a city and the school building attended is more than 2 1/2 miles by the usually traveled road from the residence of the pupil; or

(2) (B) the residence of the pupil is outside the corporate limits of a city, the school building attended is inside the corporate limits of a city and the school building attended is more than 2 1/2 miles by the usually traveled road from the residence of the pupil; or

(3) (C) the residence of the pupil is inside the corporate limits of one city, the school building attended is inside the corporate limits of a dif-

ferent city and the school building attended is more than 2½ miles by the usually traveled road from the residence of the pupil.

(2) The provisions of this subsection are subject to the provisions of subsections (c) and (d).

(c) The board of education of every school district is authorized to adopt rules and regulations to govern the conduct, control and discipline of all pupils while being transported in school buses. The board may suspend or revoke the transportation privilege or entitlement of any pupil who violates any rules and regulations adopted by the board under authority of this subsection.

(d) The board of education of every school district may suspend or revoke the transportation privilege or entitlement of any pupil who is detained at school at the conclusion of the school day for violation of any rules and regulations governing pupil conduct or for disobedience of an order of a teacher or other school authority. Suspension or revocation of the transportation privilege or entitlement of any pupil specified in this subsection shall be limited to the school day or days on which the pupil is detained at school. The provisions of this subsection do not apply to any pupil who has been determined to be an exceptional child, except gifted children, under the provisions of the special education for exceptional children act.

Sec. 4. K.S.A. 72-8302 and K.S.A. 1995 Supp. 72-89a01 and 72-89a02 are hereby repealed.

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

(Published in the Kansas Register April 18, 1996.)

HOUSE BILL No. 2600

AN ACT concerning retail electric service; establishing the retail wheeling task force to study competition in such service; relating to authorization of such competition by the state corporation commission.

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

Section 1. (a) There is hereby established the retail wheeling task force. The task force shall consist of 23 members, as follows:

(1) Two members of the house of representatives appointed by the speaker of the house of representatives and one member of the house of representatives appointed by the minority leader of the house of representatives;

(2) two members of the senate appointed by the president of the senate and one member of the senate appointed by the minority leader of the senate;

(3) a member of the staff of the state corporation commission designated by the chairperson of the commission;

(4) a representative of the citizens' utility ratepayer board designated by the chairperson of the board;

(5) a representative of the department of commerce designated by the secretary of commerce;

(6) an environmental technology expert who is an authority on renewable energy, designated by the legislative coordinating council;

(7) a large commercial or industrial electric customer, designated by the legislative coordinating council;

(8) one representative of each of the following, designated by the governing body of the association: Kansas electric cooperatives, inc., and Kansas municipal utilities, inc.;

(9) one representative of each of the following, designated by the chief administrative officer of the company: Kansas City Power and Light, Kansas City Board of Public Utilities, Kansas Electric Power Cooperative, Empire District Electric Company, Midwest Energy, Sunflower Electric Power Corporation, Western Resources and West Plains Energy;

(10) a small commercial or industrial electric customer, designated by the legislative coordinating council; and

(11) a residential electric customer, designated by the legislative coordinating council.

(b) Not more than two members of the legislature appointed to membership on the task force shall be residents of the same congressional district. No members designated pursuant to subparts (7), (10) and (11) of subsection (a) shall be residents of the same congressional district. The legislative coordinating council shall designate two of the legislative members of the task force to serve, respectively, as chairperson and vice-chairperson of the task force.

(c) The task force shall meet at least four times a year on call of the chairperson of the task force.

(d) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the task force and authorized by the legislative coordinating council. The legislative division of post audit shall provide such assistance as may be requested by the task force and authorized by the legislative post audit committee. The state corporation commission and each other state agency shall provide assistance to the task force as may be requested by the task force.

(e) Task force members enumerated in subparts (1), (2), (6), (7), (10) and (11) of subsection (a) shall receive amounts provided by subsection (e) of K.S.A. 75-3223 and amendments thereto for each day of actual attendance at any meeting of the task force or any subcommittee meeting approved by the task force. Such amounts paid to members shall be paid from appropriations to the legislative coordinating council pursuant to vouchers prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.

(f) The task force shall study issues related to competition in the furnishing of retail electric service in this state, including but not limited to:

- (1) Actions of the federal energy regulatory commission;
- (2) the obligation of electric utilities to serve customers;
- (3) the economic impact on each class of electric utility customer;
- (4) the social impact on Kansas citizens;
- (5) the impact on state general fund revenues and local franchise and tax revenues;
- (6) the status of electrical generating facilities in a competitive environment;
- (7) savings that may be achieved by electric utility mergers and downsizing;
- (8) recovery of stranded costs;
- (9) unbundling of generation, transmission and distribution services;
- (10) leveling the financing of capital investment;
- (11) retail wheeling, including loop losses;
- (12) brokerage;
- (13) incentives for renewable energy investment;
- (14) the feasibility of establishment of retail customer service areas, consisting of all classes of customers, for which retail suppliers would compete to serve;
- (15) stranded benefits such as the cold weather rule and charitable contributions by retail suppliers;
- (16) nonprice issues such as customer service, storm damage repair, energy conservation and billing;
- (17) the impact on municipal electric utilities and rural electric cooperatives; and
- (18) the impact on existing statutes.

(g) The task force shall submit a preliminary report to the house and senate committees on energy and natural resources on or before January 15, 1997, and a final report of its findings and recommendations to the house and senate committees on energy and natural resources on or before January 11, 1998.

Sec. 2. Before July 1, 1999, the state corporation commission shall continue to regulate retail electric suppliers in accordance with the provisions of K.S.A. 66-1,170 through 66-1,176, and amendments thereto, and shall not authorize competition in the furnishing of retail electric service in this state. The commission may open one or more generic dockets to study the issue of competition in the furnishing of retail electric service.

Sec. 3. The provisions of sections 1 and 2 shall expire on July 1, 1999.

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

(Published in the Kansas Register April 18, 1996.)

SUBSTITUTE FOR SENATE BILL No. 705

AN ACT concerning weights and measures devices; amending K.S.A. 34-2,108, 83-143, 83-144, 83-145, 83-146, 83-149, 83-154, 83-155, 83-205, 83-208, 83-209, 83-210, 83-212, 83-213, 83-215, 83-216, 83-220, 83-221, 83-222, 83-225, 83-303, 83-307 and 83-311 and K.S.A. 1995 Supp. 74-569, 83-201, 83-202, 83-206, 83-207, 83-214, 83-219, 83-301, 83-302, 83-304, 83-305, 83-308, 83-321, 83-322, 83-323, 83-324 and 83-325 and repealing the existing sections; also repealing K.S.A. 83-147 and 83-306 and K.S.A. 1995 Supp. 83-211 and 83-310.

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

New Section 1. (a) In addition to any other penalty provided by law, any person who violates any provision of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, may incur a civil penalty imposed under subsection (b) in the amount, fixed by rules and regulations of the secretary of agriculture, of not less than \$100 nor more than \$5,000 for each such violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) In determining the amount of the civil penalty, the following shall be taken into consideration: (1) The extent of harm caused by the violation; (2) the nature and persistence of the violation; (3) the length of time over which the violation occurs; (4) any corrective actions taken; and (5) any and all relevant circumstances.

(c) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the person, unless a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary may file a certified copy of the notice of assessment with the clerk of the district court in the county where the weighing and measuring device or dispensing device is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

(d) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary to the person who committed the violation or to the person whose agent or employee committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(e) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(f) An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty.

(g) Any civil penalty recovered pursuant to the provisions of this section or recovered under the consumer protection act for violations of any provision of K.S.A. 83-219, and amendments thereto, shall be remitted to the state treasurer, deposited in the state treasury and credited to the weights and measures fee fund.

Sec. 2. K.S.A. 34-2,108 is hereby amended to read as follows: 34-2,108. (a) The director of the Kansas state grain inspection department is authorized and empowered to enter into contracts and agreements necessary to cooperate with the United States department of agriculture, the federal grain inspection service and with other appropriate federal agencies, to make uniform the procedures followed in the official sampling, inspecting, grading, weighing and analyzing of protein content and the certification of grades, weights and protein content of all grains or commodities and to make available to the United States department of agriculture, the federal grain inspection service, or other federal agencies, the information acquired under the procedures followed by state grain inspection employees.

(b) *The director of the Kansas state grain inspection department is authorized and empowered to enter into contracts and agreements necessary to cooperate with the Kansas department of agriculture in implementing all applicable Kansas laws pertaining to the actual inspection of scales and other weighing and measuring devices.*

(b) (c) In addition to the fees collected under K.S.A. 34-103a and amendments thereto, the director shall undertake, by contract, to act as agent for the United States department of agriculture or other federal agencies and to collect the supervision fee established under the provisions of subsection (j) of 7 U.S.C.A. 79, from persons requesting services of the Kansas state grain inspection department, except that fees charged for edible bean inspections under K.S.A. 34-103a and amendments thereto include the required supervision fee. The supervision fee shall be

remitted under the terms of the contract with the United States department of agriculture or its appropriate designee.

Sec. 3. K.S.A. 1995 Supp. 74-569 is hereby amended to read as follows: 74-569. (a) The secretary of agriculture may organize the department of agriculture in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of this act or with the provisions of law, and the secretary may establish policies governing the transaction of business of the department and the administration of each of the divisions within the department. *Except as provided in K.S.A. 83-205, and amendments thereto*, the chief administrative officer of each division of the department shall be within the classified service under the Kansas civil service act and shall perform such duties and exercise such powers as the secretary of agriculture may prescribe and such duties and powers as are prescribed by law. Such chief administrative officers shall act for and exercise the powers of the secretary of agriculture to the extent authority to do so is delegated by the secretary of agriculture.

(b) Except as otherwise provided in this act, and subject to the Kansas civil service act, the chief administrative officer of each division of the department of agriculture shall appoint all subordinate officers and employees of such officer's division, subject to the approval of the secretary, and all such subordinate officers and employees shall be within the classified service of the Kansas civil service act. Personnel of each such division shall perform such duties and exercise such powers as the chief administrative officer of their division to the extent authority to do so is delegated by such administrative officer.

Sec. 4. K.S.A. 83-143 is hereby amended to read as follows: 83-143. It shall be unlawful to sell at retail or offer for sale at retail any liquefied petroleum gas except by avoirdupois weight, specified in pounds or kilograms; liquid measure, specified in gallons or liters; or vapor, specified in cubic feet, *cubic meters* or such other units as may be approved by the state sealer of weights and measures secretary of agriculture.

Sec. 5. K.S.A. 83-144 is hereby amended to read as follows: 83-144. When liquefied petroleum gas is sold at retail or offered for sale at retail by weight, in packages or containers, the tare weight of the container, and the net weight of the contents shall be plainly and conspicuously marked on the outside of the container or on a label firmly attached thereto. Tare weight shall not be construed to include the valve protecting cap, which shall be removed when weighing. *It shall be a violation of this act to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by this section; or which packages or containers bear a false statement as to weights.*

Sec. 6. K.S.A. 83-145 is hereby amended to read as follows: 83-145. The state sealer of weights and measures secretary of agriculture, or the secretary's authorized representative, is authorized to test all weighing and measuring devices used in the retail sale of liquefied petroleum gas, and shall condemn reject all such devices which are found (a) to be inaccurate and (b) to not clearly indicate the quantity of liquefied petroleum gas in kilograms or pounds, liters or gallons, or cubic feet or cubic meters or other unit approved by the state sealer of weights and measures secretary of agriculture, or the secretary's authorized representative. It shall be unlawful to use a weighing or measuring device for determining quantities of liquefied petroleum gas which has been condemned rejected by the state sealer of weights and measures secretary of agriculture, or the secretary's authorized representative. The state sealer of weights and measures secretary of agriculture, or the secretary's authorized representative, shall conspicuously mark all condemned rejected devices, which mark shall not be removed or defaced except upon authorization of the said state sealer of weights and measures or his or her secretary of agriculture or the secretary's authorized representatives. It shall be unlawful to use a vapor meter dial which is not equipped with a cubic foot indicator for testing the accuracy of the meter.

It shall be unlawful to use a liquid meter for measuring the volume, in gallons, of liquefied petroleum gas for retail sale from delivery vehicles unless such meter is equipped with a ticket printer for use in issuance of printed tickets showing the volume, in gallons, of the liquefied petroleum gas delivered.

Sec. 7. K.S.A. 83-146 is hereby amended to read as follows: 83-146. An invoice shall be submitted to the purchaser showing the quantity of liquefied petroleum gas sold, expressed in pounds, or gallons, or cubic feet, or other units approved by the state sealer of weights and measures secretary of agriculture. When vapor meters reading in approved units other than cubic feet are used, the invoice shall clearly indicate to the purchaser a factor to convert to cubic feet or gallons.

When liquid liquefied petroleum gas is sold at retail by liquid volume from a delivery vehicle, a ticket issued by a liquid meter shall be used to show the quantity delivered in gallons; and the printed ticket shall clearly

indicate to the purchaser the gallons of liquefied petroleum gas sold and delivered.

Sec. 8. K.S.A. 83-149 is hereby amended to read as follows: 83-149. Every person who violates any of the provisions of this act or any of the provisions of the act of which this act is amendatory or fails to comply with its requirements article 1 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any of the rules and regulations issued hereunder, shall be deemed guilty of a class A, nonperson misdemeanor and upon conviction shall be fined in a sum of not more than five hundred dollars (\$500).

Sec. 9. K.S.A. 83-154 is hereby amended to read as follows: 83-154. Every person who, with intent to defraud, shall falsely make or alter or cause or procure to be falsely made or altered any scale ticket or other written record evidencing or relating to the weight of any personal property or who shall, with intent to defraud, falsely make or alter or cause or procure to be falsely made or altered any entry or item on any such scale ticket or written record shall, upon conviction thereof, shall be adjudged deemed guilty of a class A, nonperson misdemeanor and upon conviction thereof shall be subject to the penalties described by K.S.A. 21-112.

Sec. 10. K.S.A. 83-155 is hereby amended to read as follows: 83-155. It shall be unlawful for any person who shall for hire weigh any vehicle at a an attended public scale to issue any scale ticket or other written record evidencing or relating to the weight of such vehicle or the load thereon unless such scale ticket or written record shall show the following: (a) The date and time of the weighing; (b) the place of the weighing; and (c) the signature of the weigher. Any person violating any of the provisions of this section shall be guilty of a class A, nonperson misdemeanor and upon conviction thereof shall be subject to the penalties prescribed by K.S.A. 21-112.

Sec. 11. K.S.A. 1995 Supp. 83-201 is hereby amended to read as follows: 83-201. As used in this act article 2 of chapter 83 of the Kansas Statutes Annotated and section 1, and amendments thereto:

(a) "Weights and measures" means all commercial weights and or measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices and any point-of-sale system.

(b) "Weight" as used in connection with any commodity means net weight, except if the label declares that the product is sold by drained weight, the term means net drained weight.

(c) "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this act tolerances, specifications and requirements as established by the secretary and those established within article 2 of chapter 83 of Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

(d) "Primary standards" means the physical standards of the state which serve as the legal reference from which all other standards and weights and measures are derived.

(e) "Secondary standards" means the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules and regulations.

(f) "Person" means individuals an individual, agent or employee of a service company, partnerships, corporations, companies, societies and associations.

(g) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(h) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(i) "Drained weight" means the weight of the solid or semisolid product representing the contents of a package or container obtained after a prescribed method for excluding the liquid has been employed.

(j) "Secretary" means the secretary of the state board of agriculture or the secretary's authorized representative.

(k) "Measuring device" includes all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

(l) "Point-of-sale system" means any combination of a cash register or other devices, or system, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item which is sold or offered for sale at retail. A point-of-sale system may also include or be attached or connected to a weighing or measuring device.

(m) "Scanner" means any electronic system that employs a laser-bar code reader to retrieve product identity, price or other information stored in a computer memory.

(n) "Service company" means a company which is in the business of examining, calibrating, testing, repairing and adjusting weighing and measuring devices but such term does not include a technical representative unless the technical representative is the owner of such service company.

(o) "Technical representative" means an individual who installs, repairs, adjusts or calibrates the weighing and measuring devices and certifies the accuracy of the weighing and measuring devices.

Sec. 007006/K.S.A. 1995 Supp. 83-202 is hereby amended to read as follows: 83-202. (a) Except as provided further:

(1) The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the state.

(2) The definitions of basic units of weight and measure, the tables of weight and measure and weights and measures equivalents as published on January 1, 1991, by the national institute of standards and technology are recognized and shall govern weighing and measuring equipment and transactions in the state.

(b) A dispensing device used to dispense compressed natural gas for use as a motor vehicle fuel may display the measurement of natural gas in gallon equivalent units or fractions thereof, and may compute the sales price in such units or fractions thereof, so long as the volume of natural gas measured as a gallon equivalent unit contains not less than 120 cubic feet. If such dispensing device is used, such device shall be the exclusive display and sales price measurement and shall not be subject to further requirements by any state agency. The following standards and requirements shall apply to commercial weighing and measuring devices:

(A) "The standards of the national conference on weights and measures" published in the national institute of standards and technology handbook 44 entitled specifications, tolerances, and other technical requirements for weighing and measuring devices as published on October, 1994 or later versions as established in rules and regulations adopted by the secretary;

(B) "the uniform laws and regulations of the national conference on weights and measures" published in the national institute of standards and technology handbook 130 regarding packaging and labeling, the method of sale of commodities, national type evaluation regulation, motor fuel inspection and motor fuel regulation, as published on December, 1994 or later versions as established in rules and regulations adopted by the secretary;

(C) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, as published on September, 1988 or later versions as established in rules and regulations adopted by the secretary;

(D) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, supplement 4, as published on October, 1994 or later versions as established in rules and regulations adopted by the secretary; and

(E) any other handbooks or sections thereof as adopted by the secretary by rules and regulations.

(b) Whenever there exists an inconsistency between the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and any of the handbooks adopted by reference, the requirements of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall control.

Sec. 13. K.S.A. 83-205 is hereby amended to read as follows: 83-205. (a) There is hereby established in the state board department of agriculture a weights and measures inspection program to enforce the provisions of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder. The program shall be under the supervision of the secretary, and the secretary shall employ a state sealer an administrator of the program and appoint such personnel as may be necessary for the proper administration of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto. The administrator shall be in the unclassified service of the Kansas civil service act.

(b) The weights and measures inspection program shall perform the following functions:

(1) Assure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;

(2) prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this state;

(3) make available to all users of physical standards or weighing and measuring equipment the precision calibration and related metrological

(continued)

certification capabilities of the weights and measures facilities of the state board department of agriculture;

(4) promote uniformity, to the extent such conformance is practicable and desirable, between weights and measures requirements of this state and those of other states and federal agencies;

(5) encourage desirable economic growth while protecting the consumer through the adoption by rule and regulation of weights and measures requirements as necessary to assure equity among buyers and sellers; and

(6) such other functions as may be specified by law or deemed necessary by the secretary to carry out the duties and functions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

Sec. 14. K.S.A. 1995 Supp. 83-206 is hereby amended to read as follows: 83-206. In the administration of the weights and measures inspection program, the secretary shall:

(a) Administer and enforce the provisions of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

(b) Conduct investigations to ensure compliance with this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

(c) Delegate to appropriate personnel individuals or private or public entities any of these responsibilities for the proper administration of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

(d) Test annually the standards of weight and measure used by any city or county within the state, and approve the same when found to be correct.

(e) Inspect and test weights and measures kept, offered or exposed for sale.

(f) Inspect and test, to ascertain if they are correct, weights and measures and point-of-sale systems commercially used: (1) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count; (2) in computing the basic charge or payment for services rendered on the basis of weight, measure or count; or (3) in recovering stored information related to the price of any item or commodity which is sold or offered for sale at retail.

(g) Approve for use, and may mark, such weights and measures and point-of-sale systems as the secretary finds to be correct, and reject and mark as rejected such weights and measures and point-of-sale systems as the secretary finds to be incorrect. Weights and measures and point-of-sale systems that have been rejected may be seized if not corrected within the time specified by the secretary or if used or disposed of in a manner not specifically authorized. The secretary shall reject and may seize the weights and measures and point-of-sale systems found to be incorrect that are not capable of being made correct.

(h) Weigh, measure or inspect packaged commodities kept, offered or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated pursuant thereto. In carrying out the provisions of this section, the secretary shall employ recognized sampling procedures as adopted by rules and regulations by incorporating applicable procedures designated in the national institute of standards and technology handbooks.

(i) Allow reasonable variations from the stated quantity of contents, which shall include those caused by loss or gain of moisture during the course of good distribution practice.

(j) Perform such other duties as may be necessary to carry out the provisions of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, or as may be otherwise authorized by law.

(k) Be authorized to enter into such contracts and agreements with individuals or private or public entities as may be necessary, in the judgment of the secretary, to fulfill the duties and responsibilities established in chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder. Any contract entered into by the secretary pursuant to this section shall not be subject to K.S.A. 75-3739, or amendments thereto.

Sec. 15. K.S.A. 1995 Supp. 83-207 is hereby amended to read as follows: 83-207. The state board secretary of agriculture may adopt rules and regulations necessary for the administration and enforcement of the provisions of article 2 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto. As a part of such rules and regulations, the state board secretary of agriculture shall adopt standards setting forth

specifications, tolerances and other technical requirements for all weights, measures and weighing and measuring devices, and point-of-sale systems. These specifications, tolerances and other technical requirements shall conform, insofar as practicable, to the specifications, tolerances and other technical requirements for weights, measures and weighing and measuring devices established by the national institute of standards and technology. The state board secretary of agriculture shall prescribe by rule and regulation rules and regulations the appropriate term or unit of weight or measure to be used whenever the secretary determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or that such practice offers an opportunity for consumer confusion.

Sec. 16. K.S.A. 83-208 is hereby amended to read as follows: 83-208. The secretary, or an inspector of weights and measures authorized by representative of the secretary, may enter any premises or vehicle in or on which any weights, measures, balances or measuring devices may be located or used for the purposes of trade, for the purpose of inspecting, testing and sealing or rejecting the same. Whoever hinders, obstructs, or in any way interferes with the secretary or an inspector of weights and measures authorized by representative of the secretary, while in the performance of the inspection, or whoever fails to produce, upon demand by such secretary or authorized inspector representative, all weights, measures, balances or measuring devices in or upon the premises or vehicle of such person or in the possession of such person for use in manufacture or trade, shall be deemed guilty of a class A, nonperson misdemeanor.

Sec. 17. K.S.A. 83-209 is hereby amended to read as follows: 83-209.

(a) If the secretary finds that any package or amount of any commodity is held, offered or exposed for sale in violation of law, the secretary may order them off-sale and may mark or tag them to show they are illegal.

(b) Whenever the secretary finds that any violation of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation rules and regulations adopted under it has occurred, the secretary may issue a stop-use order, stop-sale order, stop-removal order and or removal order or any combination of such orders with respect to weights and measures being, or capable of being, commercially used. The secretary may issue stop-sale orders, stop-removal orders or removal orders, or any combination of such orders, with respect to any package or amount of any commodity held, offered or exposed for sale, sold or being delivered if the secretary deems it necessary for the protection of the public.

(c) No person may sell, use, remove, otherwise dispose of, or fail to remove from the premises specified, any weight, measure or package or any amount of any commodity contrary to the terms of any order issued under this section.

(d) This section does not limit the right of the secretary to proceed as authorized by other sections of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

Sec. 18. K.S.A. 83-210 is hereby amended to read as follows: 83-210.

(a) Any county or city in the state may establish a department of public inspection of weights and measures, appoint inspectors of weights and measures and fix their compensation and pass such ordinances relating to weights and measures not in conflict with the state laws as may be deemed necessary. If a county or city establishes such a department it shall provide the department with suitable quarters, a set of secondary standards and all other equipment for the proper performance of duties. All county and city standards shall be tried, proved and sealed under the direction of the secretary, and shall be returned to the secretary for verification at least once in every year.

(b) Any weights and measures official appointed for a county or city shall have the duties enumerated in subsections (e) to (h), inclusive, of K.S.A. 1995 Supp. 83-206, and amendments thereto, and the powers enumerated in K.S.A. 1995 Supp. 83-208 and 83-209, and amendments thereto. These powers and duties shall extend to their respective jurisdictions, except that the jurisdiction of a county official shall not extend to any city for which a weights and measures official has been appointed. Weights and measures officials appointed for a county or city shall exercise such additional powers as may be granted by the governing body of such county or city, but such additional powers shall not be less than the powers granted to state inspectors of weights and measures under this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and shall not be in conflict with powers granted to the secretary under this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto.

(c) All departments of public inspection of weights and measures established by cities or counties prior to the effective date of this act July 1, 1985, are hereby specifically continued in existence.

Sec. 19. K.S.A. 83-212 is hereby amended to read as follows: 83-212. All bulk sales in which the buyer and seller are not both present to witness the measurement, all bulk deliveries of heating fuel and all other bulk sales specified by rule and regulation of the state board rules and regulations of the secretary of agriculture, shall be accompanied by a delivery ticket containing the following information:

- (a) The names and addresses of the buyer and seller;
- (b) the date of delivery of the product or commodity;
- (c) the quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (d) the identity of the commodity or product being sold in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale; and
- (e) the count of individually wrapped packages, if more than one; and
- (f) the unit price, unless otherwise agreed on by both the buyer and seller.

Sec. 20. K.S.A. 83-213 is hereby amended to read as follows: 83-213. (a) Except as otherwise provided in this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by rules and regulations adopted pursuant thereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

- (1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;
 - (2) the quantity of contents in terms of weight, measure or count; and
 - (3) the name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale, or sold in any place other than on the premises where packed.
- (b) The state board secretary of agriculture may adopt rules and regulations which establish reasonable variations or tolerances, prescribe the size of printing of the labeling required and prescribe exemptions of small packages.

Sec. 21. K.S.A. 1995 Supp. 83-214 is hereby amended to read as follows: 83-214. (a) The secretary may try and prove weights, measures, balances and other measuring devices on request for any person, corporation or institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as the secretary may make, the secretary, or an authorized representative of the secretary, may seal the same with a seal which is kept for that purpose.

(b) Except as otherwise provided by statute, the secretary, or the authorized representative of the secretary, may charge for services provided by the agency department and other necessary and incidental expenses or both incurred in conjunction with the testing and proving of weights, measures and other devices as provided in subsection (a) at a rate per hour or fraction thereof and other necessary and incidental expenses which is are fixed by rules and regulations adopted by the state board secretary of agriculture, except that (1) except as otherwise provided for the head house scale program during the period from July 1, 1994, through June 30, 1995, such charge for services the charges for services provided by the metrology lab shall not exceed \$50 per hour or fraction thereof, and (2) in the case of the head house scale program during the period from July 1, 1994, through June 30, 1995, such rate such charges shall not exceed \$100 per hour or fraction thereof with a minimum service time of three hours per call. In addition to these charges, where the state board of agriculture does not regularly maintain an inspection station under the weights and measures program, the secretary may charge for subsistence and transportation of personnel and equipment to such point and return. Such charges shall be set by rules and regulations adopted by the state board secretary of agriculture. The secretary may fix the manner in which any charges made pursuant to this subsection are collected.

(c) The secretary shall remit all moneys received under subsection (b) to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the weights and measures fee fund which is hereby created. All expenditures from the weights and measures fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

(d) Except as provided in K.S.A. 83-301 through 83-311, and amendments thereto, nothing in article 2 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, shall prohibit the owner of a weighing or measuring device or the owner's employee or agent from servicing or repairing such device. However, if such device is found out of tolerance and is rejected by the department of agriculture, the owner is responsible for repairing the device within the time specified on the rejection tag and notifying the department when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the secretary in performing the follow-up inspections or tests.

Sec. 22. K.S.A. 83-215 is hereby amended to read as follows: 83-215. (a) The secretary and authorized representatives and inspectors of the secretary are hereby authorized and empowered to reject any weighing or measuring device which is found not to conform to state standards or which is found not to weigh or measure within authorized tolerances.

(b) Service companies or any agent or employee thereof, shall be prohibited from condemning or taking a weighing or measuring device out of service.

(b) (c) Any weighing or measuring device that has been rejected under authority of the secretary, or an authorized representative of the secretary, shall remain subject to the control of the secretary until such time as suitable and acceptable repair has been made of the same, or an authorized disposition of the same has been approved. A thirty-day authorized repair period of use not longer than 30 days for purposes of obtaining a repair of the weighing or measuring device by the owner, or a reasonable extension of that period, may be given by the secretary or the authorized representative or inspector of the secretary when it is determined that the immediate cessation of use of such weighing or measuring device will work an undue hardship on the owner thereof person using such device or the patrons of the owner such person. The owner of such rejected weighing or measuring device shall cause the same to be repaired and corrected to weigh or measure within authorized tolerances within 30 days after being rejected, or within such extension as may be authorized, or in lieu thereof, the owner of the same may dispose of or destroy such weighing or measuring device or any rejected weight or measure under specific authority from the secretary.

Sec. 23. K.S.A. 83-216 is hereby amended to read as follows: 83-216.

(a) Any weight, measure or weighing or measuring device which has been rejected by the secretary, or by an authorized representative or inspector, and which has not been repaired or restored to weigh or measure within approved tolerances, during any authorized repair period, is hereby declared to be a common nuisance and a contraband device. The secretary, or any authorized representative, may seal the beam or mechanism out of service on any weighing or measuring device, or may take possession of any contraband weight or measure. The secretary, or any authorized representative, shall deliver to the owner or person found in possession of any contraband weight, measure or weighing or measuring device a statement giving the location and description of the weight, measure or weighing or measuring device so sealed or taken.

(b) Any weighing or measuring device which has been sealed out of service by the secretary, or by an authorized representative, and which has not been repaired or restored and made to weigh or measure within approved tolerances within 90 days following the date of sealing, or an authorized extension thereof, may be proceeded against by an action, instituted in Shawnee county district court, or in the county where such weighing or measuring device is located, for an order for the disposal of such device.

(c) Procedure in regard to the prevention of the maintenance of a common nuisance and procedure for the disposal of any weighing or measuring device may be had in accordance with and in the manner provided for under K.S.A. 41-805 and 41-806, and amendments to these sections thereto, and as otherwise authorized by statute.

Sec. 24. K.S.A. 1995 Supp. 83-219 is hereby amended to read as follows: 83-219. (a) It shall be unlawful for any person owner of a commercial weighing or measuring device:

(1) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure or weighing or measuring device that is false does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or which has been rejected except under without first obtaining the written authorization of the secretary or an authorized inspector;

(2) to use or possess a weight, measure or weighing or measuring device that is false used for or intended to be used for commercial purposes which does not meet the tolerance and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or that does not conform to the authorized standard authorized by the secretary

(continued)

for determining the quantity of any commodity or article of merchandise, for the purpose of:

- (A) Buying or selling any commodity or thing; *article of merchandise;*
- (B) computation of any charge for services rendered on the basis of weight or measure;
- (C) determining of weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;
- (3) except as allowed in K.S.A. 83-225, and amendments thereto, to break or remove any tag, mark or seal placed on any weighing or measuring device by the secretary, an authorized representative of the secretary, an authorized inspector or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of 30 days the authorized period following the placing of a rejection tag thereon by the secretary, or an authorized representative of the secretary or any authorized inspector, unless further extension of time for any repair purposes is first obtained from the secretary;
- (4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;
- (5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;
- (6) to keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;
- (7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some a reasonable customer position that may reasonably be assumed by a customer;
- (8) to violate any of the provisions of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;
- (9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;
- (10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;
- (11) to expose for sale, offer for sale or sell any commodity in package form, without it being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;
- (12) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;
- (13) to misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;
- (14) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;
- (15) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted; and
- (16) to charge or attempt to charge, at the time of the sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted;
- (17) to alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;
- (18) to hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;
- (19) to fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;
- (20) to fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;
- (21) to fail to keep or make available for examination or provide to the secretary all inspection reports, test reports and any other service

reports or other information on any device owned or operated by the owner or any agent or employee of the owner and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, and as required by the secretary;

(22) to fail to have any commercial weight, measure or weighing and measuring device tested as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(23) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, or packages or containers which bear a false statement as to weights;

(24) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary; and

(25) to violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto.

(b) It shall be unlawful for any service company or technical representative to:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the department of agriculture;

(2) certify a device as correct unless the device meets the tolerances and specifications as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(3) hinder or obstruct in any way the secretary in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(4) fail to follow the standards and requirements set forth in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(5) fail to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(6) file a false or fraudulent service company or technical representative application or reports to the secretary;

(7) fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(8) fail to keep or make available for examination in an accessible and legible manner or provide to the secretary in a legible manner all inspection reports, test reports, and any other service or report work information on any device which the service company or an agent or employee performed work on and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

(b)(c) For the purpose of paragraph (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser. For the purposes of paragraphs (a)(4) and (5), a slight variation from the stated weight, measure or quantity, within authorized tolerances, is permissible for individually packaged commodities if such variation is as often over, as it is under, the correct weight, measure or quantity stated.

(d) Violation of this section shall be deemed a deceptive act and practice as defined by K.S.A. 50-626, and amendments thereto. Violations of the provisions of K.S.A. 83-219, and amendments thereto, may be enforced by the secretary under the administrative provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by the attorney general or a county or district attorney under the Kansas consumer protection act.

Sec. 25. K.S.A. 83-220 is hereby amended to read as follows: 83-220. Any person violating any of the provisions of this act article 2 of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or violating any rule and regulation of the state board of agriculture adopted under this act rules and regulations adopted thereunder shall be guilty of a class A, a nonperson misdemeanor.

Sec. 26. K.S.A. 83-221 is hereby amended to read as follows: 83-221. All inspections and tests to inspect, test and seal, certify or reject any dispensing device or the capacity of any vehicle tank used in the transportation of liquefied petroleum gas, motor-vehicle fuels or liquid fuels shall be made in compliance with the provisions of this act chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules

and regulations promulgated thereunder. As used in this section, the term "dispensing device" shall have the meaning ascribed to such term in K.S.A. 83-401 and amendments thereto.

Sec. 27. K.S.A. 83-222 is hereby amended to read as follows: 83-222. Except as otherwise provided in this act article 2 of chapter 83 of the *Kansas Statutes Annotated, and amendments thereto*, all rules and regulations adopted under the provisions of article 1 of chapter 83 of the *Kansas Statutes Annotated* in existence immediately prior to the effective date of this act July 1, 1985, shall continue to be effective and shall be deemed to be the rules and regulations of the state board secretary of agriculture until revised, amended, repealed or nullified pursuant to law.

Sec. 28. K.S.A. 83-225 is hereby amended to read as follows: 83-225. (a) A licensed scale testing and service company shall be authorized to remove an official rejection tag or other mark placed on a scale by authority of the state sealer secretary for the purpose of testing or repairing any scale.

(b) After the test is conducted and necessary repairs are completed, the service company shall place the weighing and measuring device in service and shall notify the secretary of such within the time periods established by the secretary pursuant to rules and regulations adopted hereunder.

(b) (c) When a scale cannot be repaired properly, the scale testing and service company shall replace the rejection tag or other mark with a substitute rejection tag or other mark supplied by the state sealer department and shall notify the secretary within the time period as established by the secretary pursuant to rules and regulations adopted hereunder.

(e) (d) This section shall apply to new and used scales.

(e) (e) This section shall be supplemental to and part of the act appearing in article 2 of chapter 83 of *Kansas Statutes Annotated, Administrative or civil penalties specified in K.S.A. 1987 Supp. 83-220, and amendments thereto*, shall apply to violations of this section.

Sec. 29. K.S.A. 1995 Supp. 83-301 is hereby amended to read as follows: 83-301. As used in K.S.A. 83-301 to 83-311, inclusive through 83-325, and amendments thereto:

(a) "Scale" "Weighing and measuring device" means any device scales, liquefied petroleum gas meter or vehicle tank meter used for commercial weighing or measuring of commodities;

(b) "person" means any individual, agent or employee of a service company, partnership, association, corporation or governmental agency;

(c) "State sealer" means the state sealer of weights and measures;

(d) (c) "place of business" means any location from which a scale testing and service company, or one or more representatives or employees thereof, sell and perform services for the purpose of testing, repairing, adjusting or calibrating scales;

(e) (d) "technical representative" means an individual who is employed by a scale testing and service company and who is responsible for the proper repair, adjustment or calibration of scales by the scale testing and service company at a place of business; installs, repairs, adjusts or calibrates weighing and measuring devices and certifies the accuracy of the weighing and measuring device;

(e) "secretary" means the secretary of agriculture or an authorized representative of the secretary;

(f) "service company" means a company which is in the business of installing, examining, calibrating, testing, repairing, adjusting weighing and measuring devices but such term does not include a technical representative unless the technical representative is the owner of such service company;

(g) "vehicle tank meter" means those meters mounted on vehicle tanks used for the measurement and delivery of petroleum products; and

(h) "liquefied petroleum gas" means commercial propane and such commercial butane as is used for heating fuel.

Sec. 30. K.S.A. 1995 Supp. 83-302 is hereby amended to read as follows: 83-302. (a) Each person, other than an authorized representative of the state sealer secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a scale testing and service company in Kansas shall apply to the state sealer secretary for a scale testing and service company license, on a form to be supplied by the state sealer secretary, and shall obtain such license from the state sealer secretary before operating and performing testing or other services as a scale testing and service company. Each scale testing and service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50 and thereafter an

annual license renewal application fee of \$50 for each place of business. Each scale testing and service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable.

(b) If any scale testing and service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the applicant service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a scale testing and service company after being licensed under this section, the licensee shall supply such information to the state sealer secretary before any work is performed in Kansas from such out-of-state location. Each nonresident scale testing and service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of K.S.A. 83-301 to 83-311, inclusive chapter 83 of the *Kansas Statutes Annotated*, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident scale testing and service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the scale testing and service company intends to operate.

(c) Each scale testing and service company shall have each of their technical representatives registered annually by the state sealer. Each technical representative shall be licensed annually by the secretary. The Each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the state sealer before being registered. Each scale testing and service company shall have at least one registered technical representative in its employ at each licensed place of business; secretary each year prior to being licensed. The department of agriculture shall be authorized to charge a fee to the attendees of the continuing education seminars sponsored by the agency. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar. Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(d) No scale testing and service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the state sealer secretary. The state sealer secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the state sealer secretary, if such certificate shows that the weights or measures have been tested within the 12 calendar months next last 365 days preceding the license application.

(e) The state sealer secretary shall remit all moneys received under this section to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the weights and measures fee fund.

Sec. 31. K.S.A. 83-303 is hereby amended to read as follows: 83-303. (a) The state board secretary of agriculture with the recommendation of the state sealer may adopt, amend and revoke reasonable rules and regulations concerning:

(1) Standards of workmanship for scale testing technical representatives and service companies;

(2) requirements for contractual responsibilities and fulfillment of agreements by scale testing and service companies;

(3) maintenance and furnishing of reports and information necessary for the state sealer secretary to carry out the provisions of K.S.A. 1987 Supp. 83-301 to 83-311, inclusive chapter 83 of the *Kansas Statutes Annotated*, and amendments thereto or any rules and regulations adopted thereunder; and

(4) other matters necessary for the administration of the provisions of K.S.A. 1987 Supp. 83-301 to 83-311, inclusive chapter 83 of the *Kansas Statutes Annotated*, and amendments thereto or any rules and regulations adopted thereunder.

(b) For purposes of inspection, the state sealer or authorized representatives of the state sealer secretary may enter upon private premises with consent of the occupant during normal business hours so as to in-

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spect a weights and measures device or to inspect the installation, or repair or service reports the owner of the device or the service company is required to keep pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder or to perform any other lawful act as set out in chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder.

Sec. 32. K.S.A. 1995 Supp. 83-304 is hereby amended to read as follows: 83-304. (a) The owner or operator of a *seale weighing and measuring device* which is used for the commercial weighing of commodities *commercially* shall have the *seale such weighing and measuring device* tested and inspected at least annually for accuracy. The test shall be conducted by either a registered licensed technical representative employed by a licensed *seale testing and service company* or by an authorized representative of any city or county which has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the state sealer or an authorized representative of the state sealer secretary, which inspects such *seales weighing and measuring device* in accordance with rules and regulations adopted by the state sealer secretary. If upon inspection by the state sealer secretary or an authorized representative of the state sealer secretary, it is found that the *seale weighing and measuring device* has not been tested and inspected for accuracy and approved within the preceding 12 calendar months 365 days, the state sealer secretary or the authorized representative of the state sealer secretary shall take the *seale weighing and measuring device* out of service pursuant to the provisions of K.S.A. 83-215, and amendments thereto. The test weights or equipment used by the *seale testing and service company* shall have been approved and sealed by the state sealer secretary pursuant to K.S.A. 83-214, and amendments thereto, within the 12 calendar months 365 days preceding the date of the test. Except at the option of the city or county which has an established department of public inspection of weights and measures, annual tests and inspections shall be at the expense of the owner or operator of the *seale weighing and measuring device*. In any city or county which has a department of public inspection which annually inspects such *seales weighing and measuring device*, the test may be conducted by an authorized representative of the city or county weights and measures department. Farmers or ranchers who own and operate *seales a weighing and measuring device* used in private treaty transactions are exempt from the annual testing requirements.

(b) A *seale testing and service company* or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer secretary which conducts tests pursuant to this section shall, at the time of testing and inspection, promptly furnish to the owner or operator of the *seale weighing and measuring device* a report showing the results of the tests and inspection. Within 10 calendar days thereafter, the *seale testing and service company* or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer shall furnish a copy of such report to the state sealer. The city or county department of public inspection of weights and measures reports shall also be sent to the secretary, as required by rules and regulations adopted by the secretary, however, no report shall be furnished later than 10 days after the test or inspection of the device has occurred.

(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner and operator of a *seale weighing and measuring device* which is found to be inaccurate out of the tolerances or specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, at the time of testing shall withdraw immediately the *seale weighing and measuring device* from further use until the necessary corrections, adjustments or repairs are made and the *seale weighing and measuring device* is determined to be accurate by a *seale testing and service company* or the city or county department of public inspection of weights and measures or an authorized representative of the state sealer secretary. *Seales Weighing and measuring devices* which have been repaired or serviced shall meet the tolerances and specifications established in chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and those rules and regulations adopted by the state sealer secretary by rule and regulation prior to being placed or returned to service. The *seale testing and service company* or the city or county department of public inspection of weights and measures shall notify the state sealer secretary of any *seales weighing and measuring devices* which are found not to comply with such tolerances and specifications: and are thus inaccurate and cannot be adjusted, repaired or serviced so as to comply with the standards and tol-

erances established in chapter 83 of the Kansas Statutes Annotated, and amendments thereto. Such notification shall be as required by the secretary, pursuant to rules and regulations, however, such notification shall be furnished to the department no later than 10 days after the service company or city or county department of public inspection of weights and measures has found the weighing and measuring device to be in noncompliance with the tolerance and specifications required for such weighing and measuring device. A copy of the report prepared by the *seale testing and service company* or city or county department of public inspection of weights and measures or an authorized representative of the state sealer secretary showing the results of the *seale weighing and measuring device* test and the work done to correct any deficiencies shall be filed with the state sealer secretary by the owner or operator of the *seale* within 10 days after the test and inspection has been completed *service company*.

(d) Each *service company* shall be required to keep at such company's corporate headquarters or at such company's resident agent's office a copy of all reports regarding the installation, repair, calibration and other work the *service company* performed on the commercial weighing and measuring devices. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations. The owner or operator of a weighing and measuring device shall also be required to retain copies of all reports regarding the installation, repair or adjustment or any of the aforementioned done to the weighing and measuring device at the site where the measuring and weighing device is used. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations.

Sec. 33. K.S.A. 1995 Supp. 83-305 is hereby amended to read as follows: 83-305. When the state sealer secretary has been notified by a licensed *seale testing and service company*, by an authorized representative of the state sealer secretary or by a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, that a *seale weighing and measuring device* does not comply with tolerances and specifications adopted by the state sealer secretary, by rule and regulation, then the state sealer secretary may test the *seale weighing and measuring device* for accuracy after repairs have been made.

Sec. 34. K.S.A. 83-307 is hereby amended to read as follows: 83-307. K.S.A. 1985 Supp. 83-301 to 83-311, inclusive, do Chapter 83 of the Kansas Statutes Annotated, and amendments thereto, does not apply to a railway track scale used exclusively for the weighing of commodities on railroad vehicles.

Sec. 35. K.S.A. 1995 Supp. 83-308 is hereby amended to read as follows: 83-308. (a) At any time after a hearing in accordance with the provisions of the Kansas administrative procedure act, the state sealer secretary may revoke, suspend, decline to renew or decline to issue a *seale testing and service company license or technical representative's license*, when the *seale testing and service company or technical representative*:

(1) (a) Has refused to provide the state sealer secretary with reasonably complete and accurate information regarding methods used, materials used or work performed as required by the secretary; or

(2) (b) has failed to comply with any provision or requirement of K.S.A. 83-301 to 83-311, inclusive chapter 83 of the Kansas Statutes Annotated, and amendments thereto or the Kansas weights and measures laws or any rule and regulation rules and regulations adopted thereunder;

(b) The state sealer shall suspend the license of any *seale testing and service company* which does not have a registered technical representative at each licensed place of business as required under subsection (c) of K.S.A. 83-302 and amendments thereto. Suspension pursuant to this subsection shall not require a hearing.

(c) has failed to perform work in a manner consistent with the standards set forth in chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder; or

(d) has committed an unlawful act as established in K.S.A. 83-219, and amendments thereto.

Sec. 36. K.S.A. 83-311 is hereby amended to read as follows: 83-311. Any person violating or failing to comply with any of the provisions of K.S.A. 1985 Supp. 83-301 to through 83-311, inclusive and K.S.A. 1995 Supp. 83-321 through 83-325, and amendments thereto, or violating or failing to comply with any authorized rule and regulation rules and regulations of the state sealer secretary adopted thereunder, shall be deemed

guilty of a class A nonperson misdemeanor. Each separate violation shall be a separate misdemeanor.

Sec. 37. K.S.A. 1995 Supp. 83-321 is hereby amended to read as follows: 83-321. (a) All of the powers, duties and functions of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, are hereby transferred to and conferred and imposed upon the secretary of the state board of agriculture.

(b) The secretary of the state board of agriculture shall be the successor in every way to the powers, duties and functions of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, and shall be deemed the orders and directives of the secretary of the state board of agriculture until revised, amended or nullified pursuant to law.

(c) The secretary of the state board of agriculture shall succeed to whatever right, title or interest the director of the Kansas state grain inspection department, with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of the state board of agriculture shall be deemed to have the same force and effect as if performed by the director of the Kansas grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, in which such powers, duties and functions were vested prior to the effective date of this order.

(d) Whenever the director of the Kansas grain inspection department, or words of like effect, with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of the state board of agriculture.

(e) All rules and regulations of the director of the Kansas grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of the state board of agriculture until revised, amended, revoked or nullified pursuant to law.

(f) All orders and directives of the director of the Kansas grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, in existence on the effective date of this act shall continue to be effective and shall be deemed the orders and directives of the secretary of the state board of agriculture until revised, amended or nullified pursuant to law.

(g) The secretary of the state board of agriculture shall succeed to whatever right, title or interest the director of the Kansas grain inspection department, with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, has acquired in any real or personal property in this state, and the secretary shall hold the same for and in the name of the state of Kansas.

(h) On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, to acquire, hold or dispose of real or personal property or any interest therein, the secretary of the state board of agriculture shall succeed to such power or authority.

Sec. 38. K.S.A. 1995 Supp. 83-322 is hereby amended to read as follows: 83-322. On the effective date of this act, officers and employees

who immediately prior to such date, were engaged in the performance of powers, duties or functions of the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, and who in the opinion of the secretary of the state board of agriculture, are necessary to perform the powers, duties and functions of the Kansas grain inspection laws pertaining to the actual inspection of the scales and other weighing and measuring devices specified in chapter 34 of Kansas Statutes Annotated, and amendments thereto, shall be transferred to and shall become officers and employees of the state board department of agriculture. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act, The service of each such officer and employee so transferred shall be deemed to have been continuous.

Sec. 39. K.S.A. 1995 Supp. 83-323 is hereby amended to read as follows: 83-323. (a) When any conflict arises as to the disposition of any property, power, duty or function, or the unexpended balance of any appropriation, as a result of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor whose decision shall be final.

(b) The state board department of agriculture shall succeed to all property rights and records which were used for or pertain to the performance of the powers, duties and functions transferred to the secretary of the state board of agriculture. Any conflict as to the proper disposition of property or records arising under this section and resulting from the transfer, attachment or all or part of the powers, duties and functions of the director of the Kansas state grain inspection department shall be determined by the governor whose decision shall be final.

Sec. 40. K.S.A. 1995 Supp. 83-324 is hereby amended to read as follows: 83-324. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced by or against the director of the Kansas state grain inspection department with regard to the Kansas grain inspection laws or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties shall abate by reason of the transfers effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the secretary of the state board of agriculture or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

Sec. 41. K.S.A. 1995 Supp. 83-325 is hereby amended to read as follows: 83-325. (a) On the effective date of this act, the balance of all funds appropriated and reappropriated to the director of the Kansas state grain inspection department, the actual inspection of scales and other weighing and measuring devices with regard to the Kansas grain inspection laws is hereby transferred to the state board department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date were engaged in the performance of powers, duties or functions of any state agency or officer transferred by this act, or which becomes a part of the state board department of agriculture or the powers, duties and functions of which are transferred to the secretary of agriculture, shall be assumed and paid by the state board department of agriculture.

New Sec. 42. If any part of this act are held to be invalid or unconstitutional by any court, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional part or parts.

Sec. 43. K.S.A. 34-2, 108, 83-143, 83-144, 83-145, 83-146, 83-147, 83-149, 83-154, 83-155, 83-205, 83-208, 83-209, 83-210, 83-212, 83-213, 83-215, 83-216, 83-220, 83-221, 83-222, 83-225, 83-303, 83-306, 83-307 and 83-311 and K.S.A. 1995 Supp. 74-569, 83-201, 83-202, 83-206, 83-207, 83-211, 83-214, 83-219, 83-301, 83-302, 83-304, 83-305, 83-308, 83-310, 83-321, 83-322, 83-323, 83-324 and 83-325 are hereby repealed.

Sec. 44. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 18, 1996.)

HOUSE BILL No. 2826

AN ACT concerning electronic filing of business records; amending K.S.A. 21-3711 and 45-412 and repealing the existing sections.

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

New Section 1. The secretary of state, the secretary of revenue and the secretary of human resources may adopt rules and regulations for the purpose of authorizing the electronic filing of reports, certificates or other documents which businesses may be required by law to file with such agencies pursuant to chapters 17, 44 and 56 of the Kansas Statutes Annotated.

Sec. 2. K.S.A. 21-3711 is hereby amended to read as follows: 21-3711. Making, *generating, distributing* a false *writing information* is making or drawing or causing to be made, *generated, distributed* or drawn any written instrument *electronic data* or entry in a book of account with knowledge that such *writing information* falsely states or represents some material matter or is not what it purports to be, and with intent to defraud or induce official action.

Making a false *writing information* is a severity level 8, nonperson felony.

New Sec. 3. For an image recognition and information storage system which is used by an agency to record and store information from records, papers or documents and which complies with standards recommended by the state archivist and approved by the state records board pursuant to K.S.A. 45-412, and amendments thereto, the agency's statement of the information shall be deemed to be an original record of the information for all purposes, including introduction into evidence in all courts or administrative agencies.

Sec. 4. K.S.A. 45-412 is hereby amended to read as follows: 45-412.

(a) The state archivist shall prepare recommendations, to be approved by the state records board, based on the current standards of the federal government and the American national standards institute, for the quality of film or optical disc, proper arrangement of materials, suitable filming or other image reproduction techniques and equipment, quality of photographic or optical disc images, film processing results, and film or optical disc storage conditions which should be achieved or utilized by state and local agencies in making microphotographic or optical disc copies of government records with enduring value pursuant to K.S.A. 12-122, 19-250 or 75-3506, and amendments thereto, *and for information recorded and stored using an image recognition and information storage system.* Whenever microphotographic or optical disc copies of records with enduring value fail to meet the standards recommended by the state archivist and approved by the state records board, the state archivist shall urge state and local agencies to retain the original records.

(b) Whenever photographs, microphotographs or other reproductions on film or optical disc have been prepared pursuant to K.S.A. 75-3506, and amendments thereto, and have been placed in conveniently accessible files and provisions made for preserving, examining and using the same, and when a negative copy of the film or a master copy of the optical disc has been deposited in a secure place where it will not be subject to use except in making additional positive copies, any state agency, with the approval of the state records board or as authorized by the retention and disposition schedules, may cause the original records from which the photographs, microphotographs or other reproductions on film or optical disc have been made, or any part thereof, to be destroyed. Such records shall not be destroyed and shall be retained by the agency or transferred to the state archives or temporarily to another suitable place designated by the board, if the board judges such materials to have enduring value in their original form.

(c) Except as provided by subsection (b) of K.S.A. 12-120, and amendments thereto, whenever photographs, microphotographs or other reproductions on film have been prepared as provided in K.S.A. 12-122 or 19-250, and amendments thereto, and have been placed in conveniently accessible files and provisions made for preserving, examining and using the same, and when a negative copy of the film has been deposited in a secure place where it will not be subject to use except in making additional positive copies, a local agency may retain the original records in its custody at any suitable location, may deposit them in collections established pursuant to K.S.A. 12-1658 and 12-1660, and amendments thereto, or K.S.A. 19-2648 and 19-2649, and amendments thereto, or may dispose of the original records as provided in the retention and disposition schedules. If there are no relevant provisions in the retention and dis-

position schedules, the original records shall be offered to the state historical society prior to other disposition of them.

(d) The state historical society may prepare and deposit in the state archives a microfilm or other copy of any noncurrent government record which is retained by a state or local agency, unless public access to the record is restricted by statute or by administrative regulation authorized by statute.

Sec. 5. K.S.A. 21-3711 and 45-412 are hereby repealed.

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

(Published in the Kansas Register April 18, 1996.)

SENATE SUBSTITUTE FOR HOUSE BILL No. 2041

AN ACT relating to oil and gas; concerning natural gas gathering systems; establishing a task force; defining certain terms; amending K.S.A. 55-150 and repealing the existing section.

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

Section 1. K.S.A. 55-150 is hereby amended to read as follows: 55-150. As used in this act unless the context requires a different meaning:

- (a) "Commission" means the state corporation commission.
- (b) "Contractor" means any person who acts as agent for an operator as a drilling, plugging, service rig or seismograph contractor in such operator's oil and gas, *cathodic protection, gas gathering or underground natural gas storage operations;*
- (c) "Fresh water" means water containing not more than 1,000 milligrams per liter, total dissolved solids;
- (d) "*Gas gathering system*" means a natural gas pipeline system used primarily for transporting natural gas from a wellhead, or a metering point for natural gas produced by one or more wells, to a point of entry into a main transmission line, but shall not mean or include: (1) the gathering of natural gas produced from wells owned and operated by the gatherer and where the gathering system is used exclusively for its own private purposes; (2) lead lines from the wellhead to the connection with the gathering system which are owned by the producing entity; and (3) gathering systems used exclusively for injection and withdrawal from natural gas storage fields.

(e) "Operator" means a person who is responsible for the physical operation and control of a well, *gas gathering system or underground natural gas storage facility.*

(~~e~~) (f) "Person" means any natural person, partnership, governmental or political subdivision, firm, association, corporation or any other legal entity;

(~~f~~) (g) "Rig" means any crane machine used for drilling or plugging wells;

(~~g~~) (h) "Usable water" means water containing not more than 10,000 milligrams per liter, total dissolved solids.

(~~h~~) (i) "Well" means a hole drilled or *recompleted* for the purpose of:

- (1) Producing oil or gas;
- (2) injecting fluid, air or gas in the ground in connection with the exploration for or production of oil or gas;
- (3) obtaining geological information in connection with the exploration for or production of oil or gas by taking cores or through seismic operations;
- (4) disposing of fluids produced in connection with the exploration for or production of oil or gas; or
- (5) providing cathodic protection to prevent corrosion to lines; or
- (6) *injecting or withdrawing natural gas.*

New Sec. 2. (a) There is hereby established a task force on gas gathering. The task force shall be composed of the following members:

- (1) The chairperson of the committee on energy and natural resources of the senate or the designee of the chairperson;
- (2) the chairperson of the committee on energy and natural resources of the house of representatives or the designee of the chairperson;
- (3) the ranking minority member of the committee on energy and natural resources of the senate or the designee of the ranking minority member;
- (4) the ranking minority member of the committee on energy and natural resources of the house of representatives or the designee of the ranking minority member;
- (5) a person representing independent gas producers appointed by the governor;
- (6) a person representing royalty owners appointed by the governor;
- (7) a person representing irrigators appointed by the governor;

- (8) a person who is an expert in oil and gas law appointed by the governor who shall be an ex officio member of the task force;
 - (9) a person representing gas gathering companies affiliated with major pipeline companies appointed by the governor;
 - (10) a person representing major gas producers appointed by the governor;
 - (11) a person representing intermediate gas gatherers appointed by the governor;
 - (12) a county appraiser appointed by the governor;
 - (13) an independent gas gatherer or gatherer-producer appointed by the governor; and
 - (14) the chairperson of the state corporation commission or the designee of the chairperson who shall be an ex officio member of the task force.
- (b) The chairperson and vice-chairperson of the task force shall be appointed by the legislative coordinating council on or before June 1, 1996. The governor shall make appointments under this section on or before June 1, 1996. The chairperson of the task force shall call a meeting of the task force as soon as practicable after all members of the task force have been appointed. The task force shall meet on call of the chairperson as may be necessary but not more than 15 days total prior to January 13, 1997.
- (c) The task force shall study the implications of deregulation on the natural gas gathering system in Kansas including, but not limited to:
- (1) implications for the major pipeline companies operating in the affected areas;
 - (2) implications for independent gas producers;
 - (3) implications for royalty owners;
 - (4) implications for irrigators in the region;
 - (5) implications for the state department of revenue's collection of the severance tax;
 - (6) implications for county-property tax base and associated concerns;
 - (7) the effect on first purchaser contracts relating to severance gas tax (particularly out-of-state purchasers);
 - (8) concerns about the adequacy of the information reported on royalty check stubs including other nonprice issues;
 - (9) the impact of the spin-down process of the major pipeline companies on the gas gathering system and on the financing of the capital investment structure;
 - (10) the effect on franchise agreements regulated by the state corporation commission;
 - (11) public disclosure of contracts and their contents relating to gas gathering rates;
 - (12) actions of the Federal Energy Regulatory Commission and the consequences of those actions;
 - (13) the obligation of gas gatherers to serve customers including subsidiaries;
 - (14) the economic impact on each class of gas customers;
 - (15) the effect on brokerage; and
 - (16) a review of existing Kansas statutes and applicable rules and regulations.
- (d) Members of the task force appointed under (a) (1) through (a) (8) attending meetings of the task force or subcommittee meetings authorized by the task force shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto. Other members of the task force shall not receive any compensation or travel expenses for attending meetings of the task force or subcommittee meetings authorized by the task force.
- (e) The staff of the legislative research department, the office of the revisor of statutes and the division of legislative administrative services shall provide such assistance as may be requested by the task force and authorized by the legislative coordinating council. The legislative division of post audit shall provide such assistance as may be requested by the task force and authorized by the legislative post audit committee. The state corporation commission shall provide assistance to the task force as may be requested by the task force.
- (f) In accordance with K.S.A. 46-1204 and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the task force.
- (g) The task force shall submit its report and recommendations to the chairpersons and ranking minority members of the committees on energy and natural resources of the senate and the house of representatives and to the secretary of the senate and the chief clerk of the house of representatives on or before January 13, 1997.
- (h) The provisions of this section shall expire on July 1, 1997.

Sec. 3. K.S.A. 55-150 is hereby repealed.

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

(Published in the Kansas Register April 18, 1996.)

HOUSE BILL No. 2643

AN ACT concerning the Kansas state grain inspection department; relating to cooperative agreements, grain warehouse charges and establishing fees; amending K.S.A. 34-101b and 34-125 and K.S.A. 1995 Supp. 34-103a and 77-415 and repealing the existing sections.

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

Section 1. K.S.A. 34-101b is hereby amended to read as follows: 34-101b. (a) The director of the Kansas state grain inspection department, with the approval of the state grain advisory commission and the governor, is authorized and empowered to enter into contracts and agreements necessary to cooperate with the commodity credit corporation, a public corporation organized under the laws of the United States or other federal agencies to make uniform the procedures followed in examining state licensed public grain warehouses and to make available to the commodity credit corporation or other federal agencies the information acquired under such examining procedures by state warehouse examiners.

(b) The director of the Kansas state grain inspection department is authorized and empowered to enter into contracts and agreements necessary to cooperate with governmental agencies of this state, other states, agencies of the federal government and private associations in order to carry out the purpose and provisions of this chapter and the United States warehouse act, 7 U.S.C.A., section 241, et seq. Notwithstanding any other provisions of this chapter, such agreements may relate to a joint program for licensing, bonding and inspecting stations. Such a program may be designed to avoid duplication of effort on the part of the licensing authority and requirements for operation, and promote more efficient enforcement of the provisions of this chapter and comparable provisions of the laws of the states of Nebraska, Colorado, Missouri and Oklahoma.

Sec. 2. K.S.A. 1995 Supp. 34-103a is hereby amended to read as follows: 34-103a. (a) The Kansas state grain inspection department shall collect from an applicant requesting services a fee for such services rendered by the department. Such fees shall be determined and fixed by the director by rules and regulations. Prior to determining and fixing such fees, the director shall consider recommendations thereon by receive approval from the state grain advisory commission and further be approved by the federal grain inspection service prior to implementation. Such fees shall not be more than the amounts shown in the following fee schedule:

	Not more than
Carlot, per inspection or reinspection	\$ 20
Extra sample secured at time of original, per request	6
New sample secured after original, per request	7
Articulate carlot, per inspection or reinspection, per 1,000 bu. or fraction	5
Extra sample or new sample	20
Truck or trailer, per inspection or reinspection	10
Extra sample secured at time of original, per request	5
Bin inspection, plus applicable sampler hourly rate	7
Submitted sample inspection, per sample	7
Warehouse sample-lot inspection, per sample	10
Diverter-type sample at points outside inspection point switching limits, plus applicable sampler hourly rate and mileage	10
Barge inspection or reinspection, per 1,000 bu. or fraction	5
All reinspections of above carriers based on file sample	7
Initial checktest and approve country point diverter-type samplers and train elevator sampler, plus hourly and travel time rate and mileage	60
Diverter-type review checktest visits at country points, hourly rate plus mileage	20
Checktesting diverter-type samplers at terminal points, hourly rate (with one hour minimum fee)	20
Chemical test (bleaching per sample)	10
Protein, grains other than wheat	15
Oil, grains other than wheat	15
Protein initial or reinspection	5
Aflatoxin test (quick test)	30

(continued)

Aflatoxin kit 20
 Aflatoxin test (quantitative test) 30
 Factor only determination, one factor 5
 Factor only determination, 2 or more factors, per factor (not to exceed full grade fee) 5
 Each approved statement requested in addition to grade requirement .. 5
 Duplicate certificate 3
 Stowage examination, carlot, per request 10
 Stowage examination, barge, per request 15
 Stowage examination, articulate carlot, per request 15
 DHV count 7
 Charge for services performed on overtime (after eight hours per day) by state grain personnel upon request by grain industry, including Saturdays, Sundays and holidays, per overtime hour 20
 Charge per hour for sampler or weigher by special arrangement, per man 20
 The following fees shall be charged for the services rendered by the department pursuant to the United States agricultural marketing act of 1946, as amended:
 Inspection official warehouse lot, per certificate 25
 Inspection official car sample, per certificate 25
 Inspection official truck sample, per certificate 20
 Inspection submitted sample, per certificate 15
 Inspection sampling fee, checkweighing or checkloading, per hour ... 20
 Carlot, per class I weight, 100% supervision (Minimum of 2 cars weighed per hour or hourly charges apply on top of weighing charge) 8
 Carlot per class II weight, 25% supervision 5
 Barge weight, per 1,000 bu. or fraction 5
 Truck or trailer, per weight 8
 House transfer weight, per 1,000 bu. or fraction 5
 Weigh-up, annual, per 1,000 bu. or fraction 3
 In weighing, sacked cars, per manhour 20
 Out weighing, sacked cars, with count, per manhour 20
 Out weighing, sacked cars, with count and weight each sack, per manhour 20
 Charge for services performed on call in or call back after designated working hours by state grain personnel upon request by grain industry, including Saturdays, Sundays and holidays, per hour (with two hours minimum fee) 20
 Special services 30

(b) Where any service is performed in a business community where the department does not regularly maintain an inspection station, the department may charge for subsistence and transportation of personnel and equipment from the headquarters of such personnel to such point and return. Such charges shall be set by adoption of rules and regulations as provided by law by the director in the same manner as fees are determined pursuant to subsection (a). The director may fix the manner in which the charges are collected.

(c) If any person, warehouse or railroad corporation or any of their agents or employees refuses or prevents the officers of the department from having access to their scales, elevators, warehouses and other places in the regular performance of their duties in inspecting, sampling, sampling for inspection and weighing grain or other property in accordance with the tenor and meaning of this act or any law now in force or that may be enacted in relation to the same, such persons or corporations shall be guilty of a misdemeanor.

(d) The department is authorized to provide up to a 20% discount of fees of services rendered through a contractual agreement in which the applicant agrees to have all services performed by the department. The number and type of services shall be listed in the contractual agreement and may include, but are not limited to: (1) Carlot, trucklot, barge lot, in or out inspections; (2) weights including submitted samples, protein, aflatoxin; and (3) other tests that may be requested or are provided by the department.

Sec. 3. K.S.A. 34-125 is hereby amended to read as follows: 34-125.

(a) The commission shall, prior to June 1 each year, shall determine a schedule of maximum and minimum charges to be made by public grain warehouses, licensed under the laws of the state of Kansas, for the storage of grain and for such other and extraordinary services performed or to be performed by such licensed public grain warehousemen during the en-

ding license year. Such charges made by such warehouse shall be filed with the Kansas grain inspection department and such warehouse shall not be required to refile such charges unless such warehouse is changing such charges that are posted or until such time that the charges are changed by the commission and the director. Upon determining such schedule of maximum and minimum charges, the commission shall recommend to the director the adoption of such maximum and minimum charges, but the director may increase or decrease any or all of such charges as he the director shall deem necessary in the public interest. Any or all of such maximum or minimum charges, as may be increased or decreased by the director, may be restored to the original maximum and minimum charges as recommended by the commission, if such restoration is approved by a vote of at least four members of such commission at a regular meeting or a special meeting called as provided in K.S.A. 34-123, and amendments thereto.

The schedule of maximum and minimum charges determined as hereinbefore provided shall become effective on June 1 of such year, and no sooner, and if

(b) If any of such charges be changed from those previously in effect the director shall notify all currently licensed public warehousemen of such schedule of maximum and minimum charges on or before June 1 preceding the commencement of the license year for which such schedule shall be effective, except that in case the commission overrides increases or decreases in such schedule by the director and restores the original maximum and minimum charges as determined by the commission at any time subsequent to June 1, then the director shall notify all currently licensed public warehousemen of such restored schedule of maximum and minimum charges within five (5) days after the action of the commission restoring the original schedule.

Sec. 4. K.S.A. 1995 Supp. 77-415 is hereby amended to read as follows: 77-415. As used in K.S.A. 77-415 through 77-437, and amendments thereto, unless the context clearly requires otherwise:

(1) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

(2) "Person" means firm, association, organization, partnership, business trust, corporation or company.

(3) "Board" means the state rules and regulations board established under the provisions of K.S.A. 77-423 and amendments thereto.

(4) "Rule and regulation," "rule," "regulation" and words of like effect mean a standard, statement of policy or general order, including amendments or revocations thereof, of general application and having the effect of law, issued or adopted by a state agency to implement or interpret legislation enforced or administered by such state agency or to govern the organization or procedure of such state agency. Every rule and regulation adopted by a state agency to govern its enforcement or administration of legislation shall be adopted by the state agency and filed as a rule and regulation as provided in this act. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a state agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render the same a rule and regulation within the meaning of the foregoing definition, nor shall it constitute specific adoption thereof by the state agency so as to be required to be filed. A rule and regulation as herein defined shall not include any rule and regulation which: (a) Relates to the internal management or organization of the agency and does not affect private rights or interest; (b) is an order directed to specifically named persons or to a group which does not constitute a general class and the order is served on the person or persons to whom it is directed by appropriate means. The fact that the named person serves a group of unnamed persons who will be affected does not make such an order a rule and regulation; (c) relates to the use of highways and is made known to the public by means of signs or signals; (d) relates to the construction and maintenance of highways or bridges or the laying out or relocation of a highway other than bidding procedures or the management and regulation of rest areas; (e) relates to the curriculum of public educational institutions or to the administration, conduct, discipline, or graduation of students from such institutions or relates to parking and traffic regulations of state educational institutions under the control and supervision of the state board of

regents; (f) relates to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202 and amendments thereto; (g) relates to the use of facilities by public libraries; (h) relates to military or naval affairs other than the use of armories; (i) relates to the form and content of reports, records or accounts of state, county or municipal officers, institutions, or agencies; (j) relates to expenditures by state agencies for the purchase of materials, equipment, or supplies by or for state agencies, or for the printing or duplicating of materials for state agencies; (k) establishes personnel standards, job classifications, or job ranges for state employees who are in the classified civil service; (l) fixes or approves rates, prices, or charges, or rates, joint rates, fares, tolls, charges, rules, regulations, classifications or schedules of common carriers or public utilities subject to the jurisdiction of the state corporation commission, except when a statute specifically requires the same to be fixed by rule and regulation; (m) determines the valuation of securities held by insurance companies; (n) is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance; (o) is a form, the content or substantive requirements of which are prescribed by rule and regulation or statute; (p) is a pamphlet or other explanatory material not intended or designed as an interpretation of legislation enforced or adopted by a state agency but is merely informational in nature; (q) establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife, if such seasons and limits are made known to the public by other means; or (r) establishes records retention and disposition schedules for any or all state agencies; or (s) fixes or approves fees for services rendered by the Kansas state grain inspection department pursuant to K.S.A. 34-103a, and amendments thereto.

(5) "Environmental rule and regulation" means:

(A) A rule and regulation adopted by the state board of agriculture, the secretary of the state board of agriculture, the secretary of health and environment or the state corporation commission, which has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife and parks concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958 and amendments thereto.

Sec. 5. K.S.A. 34-101b and 34-125 and K.S.A. 1995 Supp. 34-103a and 77-415 are hereby repealed.

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

(Published in the Kansas Register April 18, 1996.)

Substitute for SENATE BILL No. 706

AN ACT amending the care and treatment act for mentally ill persons; amending section 2 of 1996 Senate Bill No. 469 and section 28 of 1996 Senate Bill No. 469 and repealing the existing sections.

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

Section 1. Section 2 of 1996 Senate Bill No. 469 is hereby amended to read as follows: Section 2. When used in the care and treatment act for mentally ill persons:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to section 6 of 1996 Senate Bill No. 469 and amendments thereto or by an order of a court issued pursuant to section 29 of 1996 Senate Bill No. 469 and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) (1) "Mental health center" means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015 and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 through 65-215 and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775 and amendments thereto or K.S.A. 17-6001 through 17-6010 and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(2) "Participating mental health center" means a mental health center which has entered into a contract with the secretary of social and rehabilitation services pursuant to the provisions of K.S.A. 39-1601 through 39-1612 and amendments thereto.

(e) "Mentally ill person" means any person who is suffering from a: (1) Mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment; ; or

(2) mental condition, whether congenital or acquired, which affects the person's emotional or volitional capacity predisposing that person to commit sexually violent offenses. The provisions of this subsection (e)(2) shall expire on June 30, 1997.

(f) (1) "Mentally ill person subject to involuntary commitment for care and treatment" means: (A) A mentally ill person, as defined in subsection (e)(1), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; mental retardation; organic personality syndrome; or an organic mental disorder; or (B) a mentally ill person, as defined in subsection (e)(2) who also has committed an act that would constitute a sexually violent offense and presents a continuing threat of harm to self or others. The provisions of this subsection (f)(1)(B) shall expire on June 30, 1997.

(2) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder or condition, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's mental disorder: (a) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or (b) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty.

(g) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to section 5 of 1996 Senate Bill No. 469 and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to section 8 or section 13 of 1996 Senate Bill No. 469 and amendments thereto has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of section 10 of 1996 Senate Bill No. 469 and amendments thereto.

(h) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302 and amendments thereto.

(continued)

(j) "Qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, or a registered masters level psychologist or a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(1) "Direction" means monitoring and oversight including regular, periodic evaluation of services.

(2) "Licensed master social worker" means a person licensed as a master social worker by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(3) "Licensed specialist social worker" means a person licensed in a social work practice specialty by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(4) "Registered masters level psychologist" means a person registered as a registered masters level psychologist by the behavioral sciences regulatory board under K.S.A. 74-5361 through 74-5373 and amendments thereto.

(5) "Registered nurse" means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through 65-1164 and amendments thereto.

(k) "Secretary" means the secretary of social and rehabilitation services.

(l) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital, Rainbow mental health facility or Topeka state hospital.

(m) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner.

(n) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, state psychiatric hospital, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

(o) The terms defined in K.S.A. 59-3002 and amendments thereto shall have the meanings provided by that section.

(p) "Sexually violent offense" means:

(1) Rape, K.S.A. 21-3502 and amendments thereto;

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

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

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

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

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

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

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

(9) aggravated sexual battery, K.S.A. 3518 and amendments thereto;

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

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

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

The provisions of this subsection (p) shall expire on June 30, 1997.

Sec. 2. Section 28 of 1996 Senate Bill No. 469 is hereby amended to read as follows: Section 28. (a) *The Except as provided in subsection (c), the secretary of social and rehabilitation services or the secretary's designee may transfer any patient from any state psychiatric hospital under the secretary's control to any other state psychiatric hospital whenever the*

secretary or the secretary's designee considers it to be in the best interests of the patient. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the hospital to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary of social and rehabilitation services prior to such transfer.

(b) *The Except as provided in subsection (c), the secretary of social and rehabilitation services or the designee of the secretary may transfer any involuntary patient from any state psychiatric hospital to any state institution for the mentally retarded whenever the secretary of social and rehabilitation services or the designee of the secretary considers it to be in the best interests of the patient. Any patient transferred as provided for in this subsection shall remain subject to the same statutory provisions as were applicable at the psychiatric hospital from which the patient was transferred and in addition thereto shall abide by and be subject to all the rules and regulations of the retardation institution to which the patient has been transferred. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the institution to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary of social and rehabilitation services prior to such transfer. No patient shall be transferred from a state psychiatric hospital to a state institution for the mentally retarded unless the superintendent of the receiving institution has found, pursuant to K.S.A. 76-12b01 through 76-12b11 and amendments thereto, that the patient is mentally retarded and in need of care and training and that placement in the institution is the least restrictive alternative available. Nothing in this subsection shall prevent the secretary of social and rehabilitation services or the designee of the secretary from allowing a patient at a state psychiatric hospital to be admitted as a voluntary resident to a state institution for the mentally retarded, or from then discharging such person from the state psychiatric hospital pursuant to section 29 of 1996 Senate Bill No. 469 and amendments thereto, as may be appropriate.*

(c) *At all times, any person admitted to or detained at a state psychiatric hospital upon an application made pursuant to section 10 of 1996 Senate Bill No. 469 and amendments thereto, or an order issued pursuant to sections 14, 15, 20, 22 or 25 of 1996 Senate Bill No. 469 and amendments thereto, and who is alleged to be or who has been determined to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in subsection (f)(1)(B) of section 2 of 1996 Senate Bill No. 469 and amendments thereto, shall be kept in a separate secure facility or building and segregated at all times from any other patient alleged to be or who has been determined to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in subsection (f)(1)(A) of section 2 of 1996 Senate Bill No. 469 and amendments thereto. The provisions of this subsection (c) shall expire on June 30, 1997.*

Sec. 3. The attorney general shall have concurrent authority with any county or district attorney to file a petition pursuant to section 13 of 1996 Senate Bill No. 469 and amendments thereto and to prepare all necessary papers, to appear at any hearing and to present such evidence as the attorney general determines to be of aid to the court in determining the issues before the court in any case wherein it is alleged that a person is or continues to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in subsection (f)(1)(B) of section 2 of 1996 Senate Bill No. 469 and amendments thereto. The provisions of this section shall be part of and supplemental to the care and treatment act for mentally ill persons. The provisions of this section shall expire on June 30, 1997.

Sec. 4. In each proceeding in which it is alleged that a person is or continues to be a mentally ill person subject to involuntary commitment for care and treatment, as defined in subsection (f)(1)(B) of section 2 of 1996 Senate Bill No. 469 and amendments thereto, the court shall allow and order paid a reasonable fee and expenses for an attorney appointed by the court to represent the person against whom the petition was filed, which fee and expenses shall be taxed to the estate of the patient, to those bound by law to support such patient or to the state of Kansas, except if a proposed patient is found not to be a mentally ill person subject to

involuntary commitment under this act, the costs shall not be assessed against such patient's estate. Any fee or expenses taxed to the state of Kansas shall be considered a special claim against the state and considered in like manner by the legislature at its next session. The provisions of this section shall be part of and supplemental to the care and treatment act for mentally ill persons. The provisions of this section shall expire on June 30, 1997.

Sec. 5. Upon the provisions of this act taking effect, the attorney general shall give notice of such fact by publishing such notice in the Kansas register, but such notice requirement shall not be necessary for this act to take effect and be in force.

Sec. 6. Section 2 of 1996 Senate Bill No. 469 and section 28 of 1996 Senate Bill No. 469 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register and the issuance by the supreme court of the state of Kansas of its mandate in the case of *In the Matter of the Care and Treatment of LeRoy Hendricks*, case number 73,039.

(Published in the Kansas Register April 18, 1996.)

SENATE BILL No. 469

AN ACT enacting the care and treatment act for mentally ill persons; prescribing certain prohibited acts and providing penalties therefor; amending K.S.A. 22-3305, 22-3428, 22-4503, 28-170, 38-1505, 38-1614, 39-1602, 39-1610, 59-214, 59-2212, 59-3002, 59-3010, 59-3013, 59-3018a, 65-5603 and 76-12a10 and K.S.A. 1995 Supp. 12-1,109, 38-1513, 59-212, 65-5601, 75-5209 and 77-201 and repealing the existing sections; also repealing K.S.A. 59-2901, 59-2902, 59-2903, 59-2905, 59-2906, 59-2907, 59-2908, 59-2909, 59-2910, 59-2911, 59-2912, 59-2913, 59-2914, 59-2914a, 59-2916, 59-2916a, 59-2917, 59-2918, 59-2918a, 59-2919, 59-2919a, 59-2920, 59-2922, 59-2924, 59-2925, 59-2926, 59-2927, 59-2927a, 59-2928, 59-2929, 59-2930, 59-2931, 59-2932, 59-2933, 59-2934, 59-2936, 59-2937, 59-2938, 59-2939, 59-2940, 59-2941, 59-2943 and 59-2944.

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

New Section 1. The provisions of sections 1 through 42 and amendments thereto shall be known and may be cited as the care and treatment act for mentally ill persons.

New Sec. 2. When used in the care and treatment act for mentally ill persons:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to section 6 and amendments thereto or by an order of a court issued pursuant to section 29 and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) (1) "Mental health center" means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015 and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 through 65-215 and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775 and amendments thereto or K.S.A. 17-6001 through 17-6010 and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(2) "Participating mental health center" means a mental health center which has entered into a contract with the secretary of social and rehabilitation services pursuant to the provisions of K.S.A. 39-1601 through 39-1612 and amendments thereto.

(e) "Mentally ill person" means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

(f) (1) "Mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; mental retardation; organic personality syndrome; or an organic mental disorder.

(2) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable

to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's mental disorder: (a) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or (b) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty.

(g) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to section 5 and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to section 8 or section 13 and amendments thereto has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of section 10 and amendments thereto.

(h) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302 and amendments thereto.

(j) "Qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, or a registered masters level psychologist or a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(1) "Direction" means monitoring and oversight including regular, periodic evaluation of services.

(2) "Licensed master social worker" means a person licensed as a master social worker by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(3) "Licensed specialist social worker" means a person licensed in a social work practice specialty by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318 and amendments thereto.

(4) "Registered masters level psychologist" means a person registered as a registered masters level psychologist by the behavioral sciences regulatory board under K.S.A. 74-5361 through 74-5373 and amendments thereto.

(5) "Registered nurse" means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through 65-1164 and amendments thereto.

(k) "Secretary" means the secretary of social and rehabilitation services.

(l) "State psychiatric hospital" means Larned state hospital, Osawatimie state hospital, Rainbow mental health facility or Topeka state hospital.

(continued)

(m) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner.

(n) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, state psychiatric hospital, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

(o) The terms defined in K.S.A. 59-3002 and amendments thereto shall have the meanings provided by that section.

New Sec. 3. In computing the date upon or by which any act must be done or hearing held by under provisions of this article, the day on which an act or event occurred and from which a designated period of time is to be calculated shall not be included, but the last day in a designated period of time shall be included unless that day falls on a Saturday, Sunday or legal holiday, in which case the next day which is not a Saturday, Sunday or legal holiday shall be considered to be the last day.

New Sec. 4. (a) The fact that a person may have voluntarily accepted any form of psychiatric treatment, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a disabled person as defined in K.S.A. 59-3002 and amendments thereto.

New Sec. 5. (a) A mentally ill person may be admitted to a treatment facility as a voluntary patient when there are available accommodations and the head of the treatment facility determines such person is in need of treatment therein, and that the person has the capacity to consent to treatment, except that no such person shall be admitted to a state psychiatric hospital without a written statement from a qualified mental health professional authorizing such admission.

(b) Admission shall be made upon written application:

(1) If such person is 18 years of age or older the person may make such application for themself; or

(2) (A) If such person is less than 18 years of age, a parent may make such application for their child; or

(B) If such person is less than 18 years of age, but 14 years of age or older the person may make such written application on their own behalf without the consent or written application of their parent, legal guardian or any other person. Whenever a person who is 14 years of age or older makes written application on their own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the admittance of that child; or

(3) if such person has a legal guardian, the legal guardian may make such application only after obtaining authority to do so pursuant to K.S.A. 59-3018a and amendments thereto. If the legal guardian is seeking admission of their ward upon an order giving the guardian continuing authority to admit the ward to an appropriate psychiatric treatment facility, the head of the treatment facility may require a statement from the patient's attending physician or from the local health officer of the area in which the patient resides confirming that the patient is in need of psychiatric treatment in a treatment facility before accepting the ward for admission, and shall divert any such person to a less restrictive treatment alternative, as may be appropriate.

(c) No person shall be admitted as a voluntary patient under the provisions of this act to any treatment facility unless the head of the treatment facility has informed such person or such person's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of a minor, in writing, of the following:

(1) The rules and procedures of the treatment facility relating to the discharge of voluntary patients;

(2) the legal rights of a voluntary patient receiving treatment from a treatment facility as provided for in section 34 and amendments thereto; and

(3) in general terms, the types of treatment which are available or would not be available to a voluntary patient from that treatment facility.

(d) Nothing in this act shall be construed as to prohibit a proposed or involuntary patient with capacity to do so from making an application for admission as a voluntary patient to a treatment facility. Any proposed or involuntary patient desiring to do so shall be afforded an opportunity to consult with their attorney prior to making any such application. If the head of the treatment facility accepts the application and admits the patient as a voluntary patient, then the head of the treatment facility shall notify, in writing, the patient's attorney, the patient's legal guardian, if the patient has a legal guardian, and the district court which has jurisdiction over the patient of the patient's voluntary status. When a notice of voluntary admission is received, the court shall file the same which shall terminate the proceedings.

New Sec. 6. The head of a treatment facility shall discharge any voluntary patient whose treatment in the facility is determined by the head of the treatment facility to have reached maximum benefit. Prior to the discharge, the head of the treatment facility shall give written notice of the date and time of the discharge to the patient and, if appropriate, to the patient's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of a minor patient.

New Sec. 7. (a) A voluntary patient shall be entitled to be discharged from a treatment facility, by the head of the treatment facility, by no later than the third day, excluding Saturdays, Sundays and holidays, after receipt of the patient's written request for discharge. If the voluntary patient is a patient in a state psychiatric hospital, that hospital shall immediately give either oral or facsimile notice to the participating mental health center serving the area where the patient intends to reside and shall consider any recommendations from that mental health center which may be received prior to the time set for discharge as specified in the notice.

(b) (1) If the voluntary patient is an adult admitted upon the application of a legal guardian or pursuant to an order of the court issued pursuant to K.S.A. 59-3018a and amendments thereto, any request for discharge must be made, in writing, by the legal guardian.

(2) If the voluntary patient is a minor, the written request for discharge shall be made by the child's parent or legal guardian except if the minor was admitted upon their own written application to become a voluntary patient made pursuant to section 5 and amendments thereto, then the minor may make the request. In the case of a minor 14 or more years of age who had made written application to become a voluntary patient on their own behalf and who has requested to be discharged, the head of the treatment facility shall promptly inform the child's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the minor's request for discharge.

New Sec. 8. The head of a treatment facility or other person may file a petition pursuant to section 13 and amendments thereto seeking involuntary commitment of a voluntary patient who is refusing reasonable treatment efforts or has requested discharge from the treatment facility. A petition filed by the head of a state psychiatric hospital, or such person's designee, accompanied by a statement from a physician or psychologist employed at the hospital that the physician or psychologist believes the person to be a mentally ill person subject to involuntary commitment does not need to be accompanied by a written statement from a qualified mental health professional authorizing admission to a state psychiatric hospital.

New Sec. 9. (a) Any law enforcement officer who has a reasonable belief formed upon investigation that a person is a mentally ill person and because of such person's mental illness is likely to cause harm to self or others if allowed to remain at liberty may take the person into custody without a warrant. The officer shall transport the person to a treatment facility where the person shall be examined by a physician or psychologist on duty at the treatment facility, except that no person shall be transported to a state psychiatric hospital for examination, unless a written statement from a qualified mental health professional authorizing such an evaluation at a state psychiatric hospital has been obtained. If no physician or psychologist is on duty at the time the person is transported to the treatment facility, the person shall be examined within a reasonable time not to exceed 17 hours. If a written statement is made by the physician or psychologist at the treatment facility that after preliminary examination the physician or psychologist believes the person likely to be a mentally ill person subject to involuntary commitment for care and treatment and because of the person's mental illness is likely to cause harm to self or others if allowed to remain at liberty, and if the treatment facility is willing to admit the person, the law enforcement officer shall present to the treatment facility the application provided for in subsection (b) of

section 10 and amendments thereto. If the physician or psychologist on duty at the treatment facility does not believe the person likely to be a mentally ill person subject to involuntary commitment for care and treatment the law enforcement officer shall return the person to the place where the person was taken into custody and release the person at that place or at another place in the same community as requested by the person or if the law enforcement officer believes that it is not in the best interests of the person or the person's family or the general public for the person to be returned to the place the person was taken into custody, then the person shall be released at another place the law enforcement officer believes to be appropriate under the circumstances. The person may request to be released immediately after the examination, in which case the law enforcement officer shall immediately release the person, unless the law enforcement officer believes it is in the best interests of the person or the person's family or the general public that the person be taken elsewhere for release.

(b) If the physician or psychologist on duty at the treatment facility states that, in the physician's or psychologist's opinion, the person is likely to be a mentally ill person subject to involuntary commitment for care and treatment but the treatment facility is unwilling to admit the person, the treatment facility shall provide a suitable facility in which the person may be detained by the law enforcement officer. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in subsection (a) of section 13 and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

New Sec. 10. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an ex parte emergency custody order issued by a district court pursuant to section 14 and amendments thereto.

(b) A treatment facility may admit and detain any person presented for emergency observation and treatment upon written application of a law enforcement officer having custody of that person pursuant to section 9 and amendments thereto, except that a state psychiatric hospital shall not admit and detain any such person unless a written statement from a qualified mental health professional authorizing such admission to a state psychiatric hospital has been obtained. The application shall state:

(1) The name and address of the person sought to be admitted, if known;

(2) the name and address of the person's spouse or nearest relative, if known;

(3) the officer's belief that the person is a mentally ill person and because of the person's mental illness is likely to cause harm to self or others if not immediately detained;

(4) the factual circumstances in support of that belief and the factual circumstances under which the person was taken into custody including any known pending criminal charges; and

(5) the fact that the law enforcement officer will file the petition provided for in section 13 and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business, or that the officer has been informed by a parent, legal guardian or other person that such parent, legal guardian or other person, whose name shall be stated in the application will file the petition provided for in section 13 and amendments thereto within that time.

(c) A treatment facility may admit and detain any person presented for emergency observation and treatment upon the written application of any individual, except that a state psychiatric hospital shall not admit and detain any such person, unless a written statement from a qualified mental health professional authorizing such admission to a state psychiatric hospital has been obtained. The application shall state:

(1) The name and address of the person sought to be admitted, if known;

(2) the name and address of the person's spouse or nearest relative, if known;

(3) the applicant's belief that the person is a mentally ill person and because of the person's mental illness is likely to cause harm to self or others if not immediately detained;

(4) the factual circumstances in support of that belief;

(5) any pending criminal charges, if known;

(6) the fact that the applicant will file the petition provided for in section 13 and amendments thereto by the close of business of the first

day thereafter that the district court is open for the transaction of business; and

(7) if the application is to a treatment facility other than a state psychiatric hospital it shall also be accompanied by a statement in writing of a physician, psychologist, or qualified mental health professional finding that the person is likely to be a mentally ill person subject to commitment for care and treatment under this act.

(d) Any treatment facility or personnel thereof who in good faith renders treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

New Sec. 11. (a) Whenever any person is involuntarily admitted to or detained at a treatment facility pursuant to subsection (b) or (c) of section 10 and amendments thereto, or pursuant to an ex parte emergency custody order issued pursuant to section 14 and amendments thereto, the head of the treatment facility shall:

(1) Immediately advise the person in custody that such person is entitled to immediately contact the person's legal counsel, legal guardian, personal physician or psychologist, minister of religion, including a Christian Science practitioner or immediate family as defined in section (b) or any combination thereof. If the person desires to make such contact, the head of the treatment facility shall make available to the person reasonable means for making such immediate communication;

(2) provide notice of the person's involuntary admission including a copy of the document authorizing the involuntary admission to that person's attorney or legal guardian, immediately upon learning of the existence and whereabouts of such attorney or legal guardian, unless that attorney or legal guardian was the person who signed the application resulting in the patient's admission. If authorized by the patient pursuant to K.S.A. 65-5601 through 65-5605 and amendments thereto, the head of the treatment facility also shall provide notice to the patient's immediate family, as defined in subsection (b), immediately upon learning of the existence and whereabouts of such family, unless the family member to be notified was the person who signed the application resulting in the patient's admission; and

(3) immediately advise the person in custody of such person's rights provided for in section 34 and amendments thereto.

(b) "Immediate family" means the spouse, adult child or children, parent or parents, and sibling or siblings, or any combination thereof.

New Sec. 007006/The head of the treatment facility shall discharge any person admitted pursuant to subsection (a) of section 10 and amendments thereto when the ex parte emergency custody order expires, and shall discharge any person admitted pursuant to subsection (b) or (c) of section 10 and amendments thereto not later than the close of business of the first day that the district court is open for the transaction of business after the admission date of the person, unless a district court orders that such person remain in custody under an ex parte emergency custody order issued pursuant to the provisions of section 14 and amendments thereto, or a temporary custody order issued pursuant to the provisions of section 15 and amendments thereto.

New Sec. 007006/(a) A verified petition to determine whether or not a person is a mentally ill person subject to involuntary commitment for care and treatment under this act may be filed in the district court of the county wherein that person resides or wherein such person may be found. The petition shall state:

(1) The petitioner's belief that the named person is a mentally ill person subject to involuntary commitment and the facts upon which this belief is based;

(2) to the extent known, the name, age, present whereabouts and permanent address of the person named as possibly a mentally ill person subject to involuntary commitment; and if not known, any information the petitioner might have about this person and where the person resides;

(3) to the extent known, the name and address of the person's spouse or nearest relative or relatives, or legal guardian, or if not known, any information the petitioner might have about a spouse, relative or relatives or legal guardian and where they might be found;

(4) to the extent known, the name and address of the person's legal counsel, or if not known, any information the petitioner might have about this person's legal counsel;

(5) to the extent known, whether or not this person is able to pay for medical services, or if not known, any information the petitioner might have about the person's financial circumstances or indigency;

(continued)

(6) to the extent known, the name and address of any person who has custody of the person, and any known pending criminal charge or charges or of any arrest warrant or warrants outstanding or, if there are none, that fact or if not known, any information the petitioner might have about any current criminal justice system involvement with the person; and

(7) the name or names and address or addresses of any witness or witnesses the petitioner believes has knowledge of facts relevant to the issue being brought before the court.

The petition shall be accompanied by:

(1) A signed certificate from a physician, licensed psychologist, or qualified mental health professional designated by the head of the treatment facility stating that such professional has personally examined the person and any available records and has found that the person, in such professional's opinion, is likely to be a mentally ill person subject to involuntary commitment for care and treatment under this act, unless the court allows the petition to be accompanied by a verified statement by the petitioner that the petitioner had attempted to have the person seen by a physician, licensed psychologist or such qualified mental health professional, but that the person failed to cooperate to such an extent that the examination was impossible to conduct;

(2) if applicable because immediate admission to a state psychiatric hospital is sought, the necessary statement from a qualified mental health professional authorizing such admission; and

(3) if applicable, a copy of any notice given pursuant to section 7 and amendments thereto in which the named person has sought discharge from a treatment facility into which they had previously entered voluntarily, or a statement from the treating physician or licensed psychologist that the person is a voluntary patient but is refusing reasonable treatment efforts, and including a description of the treatment efforts being refused.

(b) The petition may include a request that an ex parte emergency custody order be issued pursuant to section 14 and amendments thereto. If such request is made the petition shall also include:

(1) A brief statement explaining why the person should be immediately detained or continue to be detained;

(2) the place where the petitioner requests that the person be detained or continue to be detained;

(3) if applicable, because detention is requested in a treatment facility other than a state psychiatric hospital, a statement that the facility is willing to accept and detain such person; and

(4) if applicable, because admission to a state psychiatric hospital is sought, the necessary statement from a qualified mental health professional authorizing admission and emergency care and treatment.

(c) The petition may include a request that a temporary custody order be issued pursuant to section 15 and amendments thereto.

New Sec./007006/(a) At the time that the petition for the determination of mental illness is filed, or any time thereafter prior to the trial upon the petition as provided for in section 21 and amendments thereto, the petitioner may request in writing that the district court issue either or both of the following: (1) An order directing any law enforcement officer to take the person named in the order into custody and transport the person to a designated treatment facility or other suitable place willing to receive and detain the person; (2) an order authorizing any named treatment facility or other place to detain or continue to detain the person until the further order of the court or until the ex parte emergency custody order shall expire.

(b) No ex parte emergency custody order shall provide for the detention of any person at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such admission and detention at a state psychiatric hospital has been filed with the court.

(c) No ex parte emergency custody order shall provide for the detention of any person in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

(d) If no other suitable facility at which such person may be detained is willing to accept the person, then the participating mental health center for that area shall provide a suitable place to detain the person until the further order of the court or until the ex parte emergency custody order shall expire.

(e) An ex parte emergency custody order issued under this section shall expire at 5:00 p.m. of the second day the district court is open for the transaction of business after the date of its issuance, which expiration date shall be stated in the order.

(f) The district court shall not issue successive ex parte emergency custody orders.

(g) In lieu of issuing an ex parte emergency custody order, the court may allow the person with respect to whom the request was made to remain at liberty, subject to such conditions as the court may impose.

New Sec./007006/(a) At the time that the petition for determination of mental illness is filed, or any time thereafter prior to the trial upon the petition as provided for in section 21 and amendments thereto, the petitioner may request in writing that the district court issue a temporary custody order. The request shall state:

(1) The reasons why the person should be detained prior to the hearing on the petition;

(2) whether an ex parte emergency custody order has been requested or was granted; and

(3) the present whereabouts of the person named in the petition.

(b) Upon the filing of a request for a temporary custody order, the court shall set the matter for a hearing which shall be held not later than the close of business of the second day the district court is open for the transaction of business after the filing of the request. The petitioner and the person with respect to whom the request has been filed shall be notified of the time and place of the hearing and that they shall each be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. If the person with respect to whom the request has been filed has not yet retained or been appointed an attorney, the court shall appoint an attorney for the person.

(c) At the hearing scheduled upon the request, the person with respect to whom the request has been filed shall be present unless the attorney for the person requests that the person's presence be waived and the court finds that the person's presence at the hearing would be injurious to the person's welfare. The court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the person at the hearing would be injurious to such person's welfare. However, if the person with respect to whom the request has been filed states in writing to the court or to such person's attorney that such person wishes to be present at the hearing, the person's presence cannot be waived.

The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the person with respect to whom the request has been filed. All persons not necessary for the conduct of the proceedings may be excluded. The court shall receive all relevant and material evidence which may be offered. The rules governing evidentiary and procedural matters shall be applied to hearings under this section in a manner so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of issues with due regard to the interests of all parties. The facts or data upon which a duly qualified expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing and if of a type reasonably relied upon by experts in their particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence. The expert may testify in terms of opinion or inference and give the expert's reasons therefor without prior disclosure of the underlying facts or data unless the court requires otherwise. If requested on cross-examination, the expert shall disclose the underlying facts or data.

If the petitioner is not represented by counsel, the county or district attorney shall represent the petitioner, prepare all necessary papers, appear at the hearing and present such evidence as the county or district attorney determines to be of aid to the court in determining whether or not there is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, and that it would be in the best interests of the person to be detained until the trial upon the petition.

(d) After the hearing, if the court determines from the evidence that:

(1) There is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, and that it is in the best interests of the person to be detained until the trial upon the petition, the court shall issue a temporary custody order;

(2) there is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, but that it would not be in their best interests to be detained until the trial upon the petition, the court may allow the person to be at liberty, subject to such conditions as the court may impose;

(3) there is not probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to

involuntary commitment for care and treatment under this act, the court shall terminate the proceedings and release the person.

(e) (1) A temporary custody order issued pursuant to this section may direct any law enforcement officer or any other person designated by the court to take the person named in the order into custody and transport them to a designated treatment facility, and authorize the designated treatment facility to detain and treat the person until the trial upon the petition.

(2) No temporary custody order shall provide for the detention and treatment of any person at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such admission and detention at a state psychiatric hospital has been filed with the court.

(3) No temporary custody order shall provide for the detention of any person in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

(4) If no other suitable facility at which such person may be detained is willing to accept the person, then the participating mental health center for that area shall provide a suitable place to detain the person until the further order of the court or until the trial upon the petition.

New Sec. 16. (a) Upon the filing of the petition provided for in section 13 and amendments thereto, the district court shall issue the following:

(1) An order fixing the time and place of the trial upon the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than 7 days or later than 14 days after the date of the filing of the petition. If a demand for a trial by jury is later filed by the proposed patient, the court may continue the trial and fix a new time and place of the trial at a time that may exceed beyond the 14 days but shall be fixed within a reasonable time not exceeding 30 days from the date of the filing of the demand.

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

(3) An order appointing an attorney to represent the proposed patient at all stages of the proceedings and until all orders resulting from such proceedings are terminated. The court shall give preference, in the appointment of this attorney, to any attorney who has represented the proposed patient in other matters if the court has knowledge of that prior representation. The proposed patient shall have the right to engage an attorney of the proposed patient's own choice and, in such event, the attorney appointed by the court shall be relieved of all duties by the court.

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least 5 days prior to the date set for the trial under section 21 and amendments thereto.

(5) An order for a mental evaluation as provided for in section 17 and amendments thereto.

(6) A notice as provided for in section 19 and amendments thereto.

(7) If the petition also contains allegations as provided for in K.S.A. 59-3009 and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by section 21 and K.S.A. 59-3013 and amendments thereto, may be consolidated.

(b) Nothing in this section shall prevent the court from granting an order of continuance, for good cause shown, to any party for no longer than 7 days, except that such limitation does not apply to a request for an order of continuance made by the proposed patient or to a request made by any party if the proposed patient absents him or herself such that further proceedings can not be held until the proposed patient has been located. The court also, upon the request of any party, may advance the date of the hearing if necessary and in the best interests of all concerned.

New Sec. 17. (a) The order for a mental evaluation required by subsection (a)(5) of section 16 and amendments thereto, shall be served in

the manner provided for in subsections (c) and (d) of section 19 and amendments thereto. It shall order the proposed patient to submit to a mental evaluation and to undergo such other evaluation as may be designated by the court in the order, except that any proposed patient who is not subject to a temporary custody order issued pursuant to section 15 and amendments thereto and who requests a hearing pursuant to section 18 and amendments thereto, need not submit to such evaluation until that hearing has been held and the court finds that there is probable cause to believe that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act. The evaluation may be conducted at a treatment facility, the home of the proposed patient or any other suitable place that the court determines is not likely to have a harmful effect on the welfare of the proposed patient. A state psychiatric hospital shall not be ordered to evaluate any proposed patient, unless a written statement from a qualified mental health professional authorizing such an evaluation at a state psychiatric hospital has been filed with the court.

(b) At the time designated by the court in the order, but in no event later than 3 days prior to the date of the hearing provided for in section 21 and amendments thereto, the examiner shall submit to the court a report, in writing, of the evaluation which report also shall be made available to counsel for the parties at least 3 days prior to such hearing. The report also shall be made available to the proposed patient and to whom ever the patient directs, unless for good cause recited in the order, the court orders otherwise. Such report shall state that the examiner has made an examination of the proposed patient and shall state the opinion of the examiner on the issue of whether or not the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under the act and the examiner's opinion as to the least restrictive treatment alternative which will protect the proposed patient and others and allow for the improvement of the proposed patient if treatment is ordered.

New Sec. 18. Whenever a proposed patient who is not subject to a temporary custody order issued pursuant to section 15 and amendments thereto requests a hearing pursuant to this section, a hearing shall be held within a reasonable time thereafter. The petitioner and the proposed patient shall be notified of the time and place of the hearing, afforded an opportunity to testify, and to present and cross-examine witnesses. The proposed patient shall be present at the hearing, and the proposed patient's presence cannot be waived. All persons not necessary for the conduct of the proceedings may be excluded. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the welfare of the proposed patient. The court shall receive all relevant and material evidence which may be offered. If the petitioner is not represented by counsel, the county or district attorney shall represent the petitioner, prepare all necessary papers, appear at the hearing and present such evidence as the county or district attorney determines to be of aid to the court in determining whether or not there is probable cause to believe that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act. If the court determines from the evidence that there is probable cause to believe that the proposed patient is a mentally ill person subject to involuntary commitment, the court shall issue the order for a mental evaluation; otherwise, the court shall terminate the proceedings.

New Sec. 19. (a) Notice as required by subsection (a)(6) of section 16 and amendments thereto shall be given to the proposed patient named in the petition, the proposed patient's legal guardian if there is one, the attorney appointed to represent the proposed patient, the proposed patient's spouse or nearest relative and to such other persons as the court directs. The notice shall also be given to the participating mental health center for the county where the proposed patient resides.

(b) The notice shall state:

(1) That a petition has been filed, alleging that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under the act and requesting that the court order treatment;

(2) the date, time and place of the trial;

(3) the name of the attorney appointed to represent the proposed patient and the time and place where the proposed patient shall have the opportunity to consult with this attorney;

(4) that the proposed patient has a right to a jury trial if a written demand for such is filed with the court at least four days prior to the time set for trial; and

(5) that if the proposed patient demands a jury trial, the trial date may have to be continued by the court for a reasonable time in order to

(continued)

empanel a jury, but that this continuance will not exceed 30 days from the date of the filing of the demand.

(c) The court may order any of the following persons to serve the notice upon the proposed patient:

(1) The physician or psychologist currently administering to the proposed patient, if the physician or psychologist consents to doing so;

(2) the head of the participating mental health center or the designee thereof;

(3) the local health officer or such officer's designee;

(4) the secretary of social and rehabilitation services or the secretary's designee if the proposed patient is being detained at a state psychiatric hospital;

(5) any law enforcement officer; or

(6) the attorney of the proposed patient.

(d) The notice shall be served personally on the proposed patient as soon as possible, but not less than 10 days prior to the date of the hearing, and immediate return thereof shall be made to the court by the person serving notice. Unless otherwise ordered by the court, notice shall be served on the proposed patient by a nonuniformed person.

(e) Notice to all other persons may be made by mail or in such other manner as directed by the court.

New Sec. 20. (a) The patient at any time may request, in writing, that any further proceedings be continued for not more than 90 days so that the court may make an order of continuance and referral for short-term treatment. The written request must be acknowledged before a notary public or a judge of the district court. The patient may request successive orders of continuance and referral. Upon receipt of such a request, the court may order the patient referred for short-term treatment to a designated treatment facility for a period of time not to exceed 90 days from the date the order is filed. No order may be issued for referral to a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such admission and treatment at a state psychiatric hospital has been filed with the court. The court may not issue an order of referral unless the attorney representing the patient has filed a statement, in writing, that the attorney has explained to the patient the nature of an order of referral and the right of the patient to have the further proceedings conducted as scheduled.

(b) If the patient's request for an order for referral for short-term treatment is made prior to the hearing required to be held pursuant to the provisions of section 15 or 18 and amendments thereto, and granted, it shall constitute a waiver of the patient's right to this hearing.

(c) Within any order of continuance and referral, the court shall confirm the new date and time set for the trial and direct that notice of such be given to the patient, to the attorney representing the patient, the petitioner or the county or district attorney as appropriate, the patient's legal guardian if there is one, the patient's spouse or nearest relative as appropriate, the head of the treatment facility to which the patient is being referred, and such other persons as the court directs. Any trial so continued shall then be held on the date set at the end of the referral period, unless again continued by the court upon the patient's request for another order of continuance and referral, or on the date set in any order of continuance necessitated by the patient's demand for a jury trial.

(d) Not later than 14 days prior to the date set for the trial provided for in section 21 and amendments thereto by any order of continuance and referral, unless the proposed patient has been accepted as a voluntary patient by the treatment facility or unless the proposed patient has filed a written request for another successive period of continuance and referral, the facility treating the proposed patient shall submit a written report of its findings and recommendations to the court, which report also shall be made available to counsel for the parties. The report also shall be made available to the proposed patient and to whomever the patient directs, unless for good cause recited in the order, the court orders otherwise.

New Sec. 21. (a) Trial upon the petition shall be held at the time and place specified in the court's order issued pursuant to subsection (a) of section 16 and amendments thereto unless a continuance as provided in section 16 or 20 and amendments thereto, has been granted. The hearing shall be held to the court only, unless the proposed patient, at least 4 days prior to the time set for the hearing, demands, in writing, a jury trial.

(b) The jury, if one is demanded, shall consist of 6 persons. The jury panel shall be selected as provided by law. Notwithstanding the provision within K.S.A. 43-166 otherwise, a panel of prospective jurors may be assembled by the clerk upon less than 20 days notice in this circumstance. From such panel 12 qualified jurors, who have been passed for cause,

shall be empaneled. Prior service as a juror in any court shall not exempt, for that reason alone, any person from jury service hereunder. From the panel so obtained, the proposed patient or the proposed patient's attorney shall strike one name; then the petitioner, or the petitioner's attorney, shall strike one name; and so on alternatively until each has stricken 3 names so as to reach the jury of 6 persons. During this process, if either party neglects or refuses to aid in striking the names, the court shall strike a name on behalf of such party.

(c) The proposed patient shall be present at the hearing unless the attorney for the proposed patient requests that the proposed patient's presence be waived and the court finds the person's presence at the hearing would be injurious to their welfare. The court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed patient at the hearing would be injurious to their welfare. However, if the proposed patient states in writing to the court or such person's attorney that such patient wishes to be present at the hearing, the person's presence cannot be waived. The petitioner and the proposed patient shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. All persons not necessary for the conduct of the proceedings may be excluded. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the welfare of the proposed patient. The court shall receive all relevant and material evidence, which may be offered, including the testimony or written findings and recommendations of the examiner who evaluated the proposed patient pursuant to the court's order issued under section 17 and amendments thereto. Such evidence shall not be privileged for the purpose of this hearing.

(d) The rules governing evidentiary and procedural matters at hearings under this section shall be applied in a manner so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of issues with due regard to the interests of all parties.

(e) If the petitioner is not represented by counsel, the county or district attorney shall represent the petitioner, prepare all necessary papers, appear at the hearing and present such evidence as the county or district attorney shall determine to be of aid to the court in determining whether or not the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act.

New Sec. 22. (a) Upon the completion of the trial, if the court or jury finds by clear and convincing evidence that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order treatment for such person at a treatment facility, except that the court shall not order treatment at a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such treatment at a state psychiatric hospital has been filed with the court. An order for treatment in a treatment facility other than a state psychiatric hospital shall be conditioned upon the consent of the head of that treatment facility to accepting the patient. In the event no other appropriate treatment facility has agreed to provide treatment for the patient, and no qualified mental health professional has authorized treatment at a state psychiatric hospital, the participating mental health center for the county in which the patient resides shall be given responsibility for providing or securing treatment for the patient or if no county of residence can be determined for the patient, then the participating mental health center for the county in which the patient was taken into custody or in which the petition was filed shall be given responsibility for providing or securing treatment for the patient.

(b) Within any order for treatment the court shall specify the period of treatment as provided for in section 25 and amendments thereto.

(c) When the court orders treatment, it shall retain jurisdiction to modify, change or terminate such order, unless venue has been changed pursuant to section 27 and amendments thereto and then the receiving court shall have continuing jurisdiction.

(d) If the court finds from the evidence that the proposed patient has not been shown to be a mentally ill person subject to involuntary commitment for care and treatment under this act the court shall release the person and terminate the proceedings.

New Sec. 23. (a) An order for outpatient treatment may be entered by the court at any time in lieu of any type of order which would have required inpatient care and treatment if the court finds that the patient is likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.

(b) No order for outpatient treatment shall be entered unless the head of the outpatient treatment facility has consented to treat the patient on an outpatient basis under the terms and conditions set forth by the court, except that no order for outpatient treatment shall be refused by a participating mental health center.

(c) If outpatient treatment is ordered, the order may state specific conditions to be followed by the patient, but shall include the general condition that the patient is required to comply with all directives and treatment as required by the head of the outpatient treatment facility or the head's designee. The court may also make such orders as are appropriate to provide for monitoring the patient's progress and compliance with outpatient treatment. Within any outpatient order for treatment the court shall specify the period of treatment as provided for in section 25 and amendments thereto.

(d) The court shall retain jurisdiction to modify or revoke the order for outpatient treatment at any time on its own motion, on the motion of any counsel of record or upon notice from the treatment facility of any need for new conditions in the order for outpatient treatment or of material noncompliance by the patient with the order for outpatient treatment. However, if the venue of the matter has been transferred to another court, then the court having venue of the matter shall have such jurisdiction to modify or revoke the outpatient treatment order. Revocation or modification of an order for outpatient treatment may be made ex parte by order of the court in accordance with the provisions of subsections (e) or (f).

(e) The treatment facility shall immediately report to the court any material noncompliance by the patient with the outpatient treatment order. Such notice may be verbal or by telephone but shall be followed by a verified written or facsimile notice delivered to the court, to counsel for all parties and, as appropriate, to the head of the inpatient treatment facility designated to receive the patient, by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic communication was made to the court. Upon receipt of verbal, telephone, or verified written or facsimile notice of noncompliance, the court may enter an ex parte emergency custody order providing for the immediate detention of the patient in a designated inpatient treatment facility except that the court shall not order the detention of the patient at a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such detention at a state psychiatric hospital has been filed with the court. Any ex parte emergency custody order issued by the court under this subsection shall expire at 5:00 p.m. of the second day the district court is open for the transaction of business after the patient is taken into custody. The court shall not enter successive ex parte emergency custody orders.

(f) (1) Upon the entry of an ex parte emergency custody order revoking a previously issued order for outpatient treatment and ordering the patient to involuntary inpatient care the court shall set the matter for hearing not later than the close of business on the second day the court is open for business after the filing of the order. Notice of the hearing shall be given to the patient, the patient's attorney, the patient's legal guardian, the petitioner or the county or district attorney as appropriate, the head of the outpatient treatment facility and the head of the inpatient treatment facility, similarly as provided for in section 19 and amendments thereto.

(2) Upon the entry of an ex parte order modifying a previously issued order for outpatient treatment, but allowing the patient to remain at liberty, a copy of the order shall be served upon the patient, the patient's attorney, the county or district attorney and the head of the outpatient treatment facility similarly as provided for in section 19 and amendments thereto. Thereafter, any party to the matter, including the petitioner, the county or district attorney or the patient, may request a hearing on the matter if the request is filed within 5 days from the date of service of the ex parte order upon the patient. The court may also order such a hearing on its own motion within 5 days from the date of service of the notice. If no request or order for hearing is filed within the 5-day period, the ex parte order and the terms and conditions set out in the ex parte order shall become the final order of the court substituting for any previously entered order for outpatient treatment. If a hearing is requested, a formal written request for revocation or modification of the outpatient treatment order shall be filed by the county or district attorney or the petitioner and a hearing shall be held thereon within 5 days after the filing of the request.

(g) The hearing held pursuant to subsection (f) shall be conducted in the same manner as hearings provided for in section 15 and amendments thereto. Upon the completion of the hearing, if the court finds by clear

and convincing evidence that the patient violated any condition of the outpatient treatment order, the court may enter an order for inpatient treatment, except that the court shall not order treatment at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such treatment at a state psychiatric hospital has been filed with the court, or may modify the order for outpatient treatment with different terms and conditions in accordance with this section.

(h) The outpatient treatment facility shall comply with the provisions of section 25 and amendments thereto concerning the filing of written reports for each 90- or 180-day period during the time the outpatient treatment order is in effect and the court shall receive and process such reports in the same manner as reports received from an inpatient treatment facility.

New Sec. 24. (a) All admissions to a state psychiatric hospital upon any order of a court shall be to the state psychiatric hospital designated by the secretary of social and rehabilitation services. The time and manner of the admission shall be arranged by the participating mental health center authorizing such admission and coordinated with the hospital and the official or agent who shall transport the person.

(b) No patient shall be admitted to a state psychiatric hospital pursuant to any of the provisions of this act, including any court-ordered admissions, if the secretary has notified the supreme court of the state of Kansas and each district court which has jurisdiction over all or part of the catchment area served by a state psychiatric hospital, that the census of a particular treatment program of that state psychiatric hospital has reached capacity and that no more patients may be admitted. Following notification that a state psychiatric hospital program has reached its capacity and no more patients may be admitted, any district court which has jurisdiction over all or part of the catchment area served by that state psychiatric hospital, and any participating mental health center which serves all or part of that same catchment area, may request that patients needing that treatment program be placed on a waiting list maintained by that state psychiatric hospital.

(c) In each such case, as a vacancy at that state psychiatric hospital occurs, the district court and participating mental health center shall be notified, in the order of their previous requests for placing a patient on the waiting list, that a patient may be admitted to the state psychiatric hospital. As soon as the state psychiatric hospital is able to admit patients on a regular basis to a treatment program for which notice has been previously given under this section, the superintendent of the state psychiatric hospital shall inform the supreme court and each affected district court that the moratorium on admissions is no longer in effect.

New Sec. 25. (a) At least 14 days prior to the end of each period of treatment, as set out in the court order for such treatment, the head of the treatment facility furnishing treatment to the patient shall submit to the court a written report summarizing the treatment provided and the findings and recommendations of the treatment facility concerning the need for further treatment for the patient. Upon the receipt of this written report, the court shall notify the patient's attorney of record that this written report has been received. If there is no attorney of record for the patient, the court shall appoint an attorney and notify such attorney that the written report has been filed.

(b) When the attorney for the patient has received notice that the treatment facility has provided the district court with its written report, the attorney shall consult with the patient to determine whether the patient desires a hearing. If the patient desires a hearing, the attorney shall file a written request for a hearing with the district court, which request shall be filed not later than the end of the 90-day or 180-day period of treatment as provided for herein. If the patient does not desire a hearing, the patient's attorney shall file with the court a written statement that the attorney has consulted with the patient; the manner in which the attorney has consulted with the patient; that the attorney has fully explained to the patient the patient's right to a hearing as set out in this section and that if the patient does not request such a hearing that further treatment will likely be ordered, but that having been so advised the patient does not desire a hearing. Thereupon, the court may renew its order for treatment and may specify the next period of treatment. Notice thereof shall be given to the patient, the attorney for the patient, the patient's legal guardian, the petitioner or the county or district attorney, as appropriate, and to the head of the treatment facility treating the patient as the court shall specify.

(c) Upon receiving a written request for a hearing, the district court shall set the matter for hearing and notice of such hearing shall be given similarly as provided for in section 19 and amendments thereto. Notice

(continued)

shall also be given to the head of the treatment facility treating the patient. The hearing shall be held as soon as reasonably practical, but in no event more than 10 days following the filing of the written request for a hearing. The patient shall remain in treatment during the pendency of any such hearing, unless discharged by the head of the treatment facility pursuant to section 29 and amendments thereto.

(d) The district court having jurisdiction of any case may, on its own motion or upon written request of any interested party, including the head of the treatment facility where a patient is being treated, hold a hearing to review the patient's status earlier than at the times set out in subsection (b) above, if the court determines it is in the best interests of the patient to have an earlier hearing, however, the patient shall not be entitled to have more than one hearing within the first 90 days after the date of the hearing at which the original treatment order was entered; one hearing within the second 90 days after the date of the hearing at which the original treatment order was entered and one hearing within each 180 days thereafter.

(e) The hearing shall be conducted in the same manner as hearings provided for in section 21 and amendments thereto, except that the hearing shall be to the court and the patient shall not have the right to demand a jury. At the hearing it shall be the petitioner's or county or district attorney's or treatment facility's burden to show that the patient remains a mentally ill person subject to involuntary commitment for care and treatment under this act.

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order continued treatment at an inpatient treatment facility as provided for in section 22 and amendments thereto, or at an outpatient treatment facility if the court determines that outpatient treatment is appropriate under section 23 and amendments thereto, and a copy of the court's order shall be provided to the head of the treatment facility. If the court finds that it has not been shown by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, it shall release the patient. A copy of the court's order of release shall be provided to the patient, the patient's attorney, the patient's legal guardian or other person known to be interested in the care and welfare of a minor patient, and to the head of the treatment facility at which the patient had been receiving treatment.

New Sec. 26. The court may issue orders providing for the transportation of patients as necessary to effectuate the provisions of this act. All orders of ex parte emergency custody, temporary custody, referral or treatment may authorize a relative or other suitable person to transport the individual named in the order to the place of detention or treatment specified in the order. All orders for transportation shall be served by the person transporting the individual named in the order upon the person in charge of the place of detention or treatment or such person's designee and due return of execution thereof shall be made to the court. A female being transported shall be accompanied by a female attendant, unless she is accompanied by an adult relative. An individual shall not be transported in a marked police car or sheriff's car if other means of transportation are available. The least amount of restraint necessary shall be used in transporting the patient.

New Sec. 27. At any time after the petition provided for in section 13 and amendments thereto has been filed, up until the expiration of two full working days following the probable cause hearing held pursuant to section 15 or 18 and amendments thereto, the district court then with jurisdiction, on its own motion or upon the written request of any person, may transfer the venue of the case to the district court for the county where the patient is being detained, evaluated or treated in a treatment facility under the authority of an order issued pursuant to section 14, 15 or 20 and amendments thereto, issued prior to the trial required by section 21 and amendments thereto. Thereafter the district court may on its own motion or upon the written request of any person transfer venue to another district court only for good cause shown.

When any order changing venue is issued, the district court issuing such order shall immediately send to the district court to which venue is changed a facsimile of all pleadings and orders in the case. The district court shall also immediately send a facsimile of the order transferring venue to the treatment facility where the patient is being detained, evaluated or treated. The district court issuing such order, if not in the county of residence of the proposed patient, shall transmit to the district court in the county of residence of the proposed patient a statement of any

court costs incurred by the county of the district court issuing such order and a certified copy of all pleadings and orders in the case.

Any district court to which venue is transferred shall proceed in the case as if the petition had been originally filed therein and shall cause notice of the change of venue to be given to the persons named in and in the same manner as provided for in section 19 and amendments thereto. In the event that notice of a change of location of a hearing due to a change of venue cannot be served at least 48 hours prior to any hearing previously scheduled by the transferring court or because of scheduling conflicts the hearing can not be held by the receiving court on the previously scheduled date, then the receiving court shall continue the hearing for up to seven full working days to allow adequate time for notice to be given and the hearing held.

Any district court to which venue is transferred, if not in the county of residence of the patient, shall transmit a statement of any court costs incurred and a certified copy of all pleadings and orders in the case to the district court in the county of the residence of the patient.

New Sec. 28. (a) The secretary of social and rehabilitation services or the secretary's designee may transfer any patient from any state psychiatric hospital under the secretary's control to any other state psychiatric hospital whenever the secretary or the secretary's designee considers it to be in the best interests of the patient. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the hospital to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary of social and rehabilitation services prior to such transfer.

(b) The secretary of social and rehabilitation services or the designee of the secretary may transfer any involuntary patient from any state psychiatric hospital to any state institution for the mentally retarded whenever the secretary of social and rehabilitation services or the designee of the secretary considers it to be in the best interests of the patient. Any patient transferred as provided for in this subsection shall remain subject to the same statutory provisions as were applicable at the psychiatric hospital from which the patient was transferred and in addition thereto shall abide by and be subject to all the rules and regulations of the retardation institution to which the patient has been transferred. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the institution to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary of social and rehabilitation services prior to such transfer. No patient shall be transferred from a state psychiatric hospital to a state institution for the mentally retarded unless the superintendent of the receiving institution has found, pursuant to K.S.A. 76-12b01 through 76-12b11 and amendments thereto, that the patient is mentally retarded and in need of care and training and that placement in the institution is the least restrictive alternative available. Nothing in this subsection shall prevent the secretary of social and rehabilitation services or the designee of the secretary from allowing a patient at a state psychiatric hospital to be admitted as a voluntary resident to a state institution for the mentally retarded, or from then discharging such person from the state psychiatric hospital pursuant to section 29 and amendments thereto, as may be appropriate.

New Sec. 29. (a) When any proposed patient or involuntary patient has been admitted to any treatment facility pursuant to section 10, 14, 15, 20, 22 or 23 and amendments thereto, the head of the treatment facility shall discharge and release the patient when the patient is no longer in need of treatment, except that no patient shall be discharged from a state psychiatric hospital without the hospital receiving and considering recommendations from the participating mental health center serving the area where the patient intends to reside.

(b) Nothing in this section shall be construed to amend or modify or repeal any law relating to the confinement of persons charged with or convicted of a criminal offense.

New Sec. 30. The head of the treatment facility shall notify, in writing, the patient, the patient's attorney, the petitioner or the petitioner's attorney, the county or district attorney as appropriate, and the district court which has jurisdiction over the patient of the patient's discharge

pursuant to section 29 and amendments thereto. When a notice of discharge is received, the court shall file the same which shall terminate the proceedings, unless there has been issued a superseding inpatient or outpatient treatment order not being discharged by the notice.

New Sec. 31. If any involuntary patient leaves the place of the patient's detention or treatment without the authority of the head of the treatment facility, the head of the treatment facility shall notify the sheriff of the county in which the treatment facility is located of the involuntary patient's unauthorized absence and request that the patient be taken into custody and returned to the treatment facility. If oral notification is given, it shall be confirmed in writing as soon thereafter as reasonably possible.

New Sec. 32. (a) Medications and other treatments shall be prescribed, ordered and administered only in conformity with accepted clinical practice. Medication shall be administered only upon the written order of a physician or upon a verbal order noted in the patient's medical records and subsequently signed by the physician. The attending physician shall review regularly the drug regimen of each patient under the physician's care and shall monitor any symptoms of harmful side effects. Prescriptions for psychotropic medications shall be written with a termination date not exceeding 30 days thereafter but may be renewed.

(b) During the course of treatment the responsible physician or psychologist or such person's designee shall reasonably consult with the patient, the patient's legal guardian, or a minor patient's parent and give consideration to the views the patient, legal guardian or parent expresses concerning treatment and any alternatives. No medication or other treatment may be administered to any voluntary patient without the patient's consent, or the consent of such patient's legal guardian or of such patient's parent if the patient is a minor.

(c) Consent for medical or surgical treatments not intended primarily to treat a patient's mental disorder shall be obtained in accordance with applicable law.

(d) Whenever any patient is receiving treatment pursuant to section 10, 14, 15, 20, 22 or 23 and amendments thereto, and the treatment facility is administering to the patient any medication or other treatment which alters the patient's mental state in such a way as to adversely affect the patient's judgment or hamper the patient in preparing for or participating in any hearing provided for by this act, then two days prior to and during any such hearing, the treatment facility may not administer such medication or other treatment unless such medication or other treatment is necessary to sustain the patient's life or to protect the patient or others. Prior to the hearing, a report of all such medications or other treatment which have been administered to the patient, along with a copy of any written consent(s) which the patient may have signed, shall be submitted to the court. Counsel for the patient may preliminarily examine the attending physician regarding the administration of any medication to the patient within two days of the hearing with regard to the affect that medication may have had upon the patient's judgment or ability to prepare for or participate in the hearing. On the basis thereof, if the court determines that medication or other treatment has been administered which adversely affects the patient's judgment or ability to prepare for or participate in the hearing, the court may grant to the patient a reasonable continuance in order to allow for the patient to be better able to prepare for or participate in the hearing and the court shall order that such medication or other treatment be discontinued until the conclusion of the hearing, unless the court finds that such medication or other treatment is necessary to sustain the patient's life or to protect the patient or others, in which case the court shall order that the hearing proceed.

(e) Whenever a patient receiving treatment pursuant to section 10, 14, 15, 20, 22 or 23 and amendments thereto, objects to taking any medication prescribed for psychiatric treatment, and after full explanation of the benefits and risks of such medication continues their objection, the medication may be administered over the patient's objection; except that the objection shall be recorded in the patient's medical record and at the same time written notice thereof shall be forwarded to the medical director of the treatment facility or the director's designee. Within five days after receiving such notice, excluding Saturdays, Sundays and legal holidays, the medical director or designee shall deliver to the patient and the patient's physician the medical director's or designee's written decision concerning the administration of that medication, and a copy of that decision shall be placed in the patient's medical record.

(f) In no case shall experimental medication be administered without the patient's consent, which consent shall be obtained in accordance with subsection (a)(6) of section 34 and amendments thereto.

New Sec. 33. (a) Restraints or seclusion shall not be applied to a patient unless it is determined by the head of the treatment facility or a

physician or psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraint or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraint or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a treatment facility shall not exceed 3 hours without medical reevaluation, except that such medical reevaluation shall not be required, unless necessary, between the hours of 12:00 midnight and 8:00 a.m. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or psychologist, which shall be no less than once per each 15 minutes. The head of the treatment facility or a physician or psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

(b) The provisions of subsection (a) shall not prevent, for a period not exceeding 2 hours without review and approval thereof by the head of the treatment facility or a physician or psychologist:

(1) Staff at the state security hospital from confining patients in their rooms when it is considered necessary for security or proper institutional management;

(2) the use of such restraints as necessary for a patient who is likely to cause physical injury to self or others without the use of such restraints;

(3) the use of restraints when needed primarily for examination or treatment or to insure the healing process; or

(4) the use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in a treatment or has become disruptive of a treatment process.

(c) "Restraints" means the application of any devices, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others.

(d) "Seclusion" means the placement of a patient, alone, in a room, where the patient's freedom to leave is restricted and where the patient is not under continuous observation.

New Sec. 34. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;

(8) to communicate by letter with the secretary of social and rehabilitation services, the head of the treatment facility and any court, attorney, physician, psychologist, or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

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(9) to contact or consult privately with the patient's physician or psychologist, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

New Sec. 35. (a) The district court records, and any treatment records or medical records of any patient or former patient that are in the possession of any district court or treatment facility shall be privileged and shall not be disclosed except:

(1) Upon the written consent of (A) the patient or former patient, if an adult who has no legal guardian; (B) the patient's or former patient's legal guardian, if one has been appointed; or (C) a parent, if the patient or former patient is under 18 years of age, except that a patient or former patient who is 14 or more years of age and who was voluntarily admitted upon their own application made pursuant to subsection (b)(2)(B) of section 5 and amendments thereto shall have capacity to consent to release of their records without parental consent. The head of any treatment facility who has the records may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient.

(2) Upon the sole consent of the head of the treatment facility who has the records if the head of the treatment facility makes a written determination that such disclosure is necessary for the treatment of the patient or former patient.

(3) To any state or national accreditation agency or for a scholarly study, but the head of the treatment facility shall require, before such disclosure is made, a pledge from any state or national accreditation agency or scholarly investigator that such agency or investigator will not disclose the name of any patient or former patient to any person not otherwise authorized by law to receive such information.

(4) Upon the order of any court of record after a determination has been made by the court issuing the order that such records are necessary for the conduct of proceedings before the court and are otherwise admissible as evidence.

(5) In proceedings under this act, upon the oral or written request of any attorney representing the patient, or former patient.

(6) To appropriate administrative or professional staff of the department of corrections whenever patients have been administratively transferred to the state security hospital or other state psychiatric hospitals pursuant to the provisions of K.S.A. 75-5209 and amendments thereto. The patient's or former patient's consent shall not be necessary to release information to the department of corrections.

(7) As otherwise provided for in this act.

(b) To the extent the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto are applicable to treatment records or medical records of any patient or former patient, the provisions of K.S.A. 65-5601 through 65-5605, inclusive, and amendments thereto shall control the disposition of information contained in such records.

(c) Willful violation of this section is a class C misdemeanor.

New Sec. 36. Any person acting in good faith and without negligence shall be free from all liability, civil or criminal, which might arise out of

acting pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false petition, report or order provided for in this act shall be guilty of a class A misdemeanor.

New Sec. 37. In each proceeding the court shall allow and order paid to any individual or treatment facility as part of the costs thereof a reasonable fee and expenses for any professional services ordered performed by the court pursuant to this act other than those performed by any individual or hospital under the jurisdiction of the secretary of social and rehabilitation services, and including the fee of counsel for the patient when counsel is appointed by the court and the costs of the county or district attorney incurred in cases involving change of venue. Other costs and fees shall be allowed and paid as are allowed by law for similar services in other cases. The costs shall be taxed to the estate of the patient, to those bound by law to support such patient or to the county of the residence of the patient as the court having jurisdiction shall direct, except that if a proposed patient is found not to be a mentally ill person subject to involuntary commitment under this act, the costs shall not be assessed against such patient's estate but may at the discretion of the court be assessed against the petitioner or may be paid from the general fund of the county of the residence of the proposed patient. Any district court receiving a statement of costs from another district court shall forthwith approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the ground that the patient is not a resident of that county. In such case it shall transmit the statement of costs to the secretary of social and rehabilitation services who shall determine the question of residence and certify the secretary's findings to each district court. Whenever a district court has sent a statement of costs to the district court of another county and such costs have not been paid within 90 days after the statement was sent, the district court that sent the statement may transmit such statement of costs to the secretary for determination and certification as provided above. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the secretary of social and rehabilitation services as to the residence of the patient shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the patient or from those bound by law to support such patient, unless the court shall find that the proceedings in which such costs were incurred were instituted without probable cause and not in good faith.

New Sec. 38. In the event of the death of a patient in a treatment facility, the head of the treatment facility shall immediately give notice of the date, time, place and cause of such death, to the extent known, to the nearest known relative of the patient, and, as appropriate, to the court having jurisdiction over the patient, the attorney for the patient, and to the county or district attorney and as otherwise provide for by law, to the coroner for the county in which the patient died.

New Sec. 39. Nothing in this act shall be construed to apply to any person alleged or thought to be a mentally ill person subject to involuntary commitment for care and treatment under this act who is in custody on a criminal charge, except with the consent of either the prosecuting attorney or trial court.

New Sec. 40. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

New Sec. 41. Whenever any person is taken into custody by an arresting officer and such officer has reasonable grounds to believe that such person has violated K.S.A. 21-3420, 21-3421, 21-3422, 21-3502, 21-3503, 21-3504, 21-3505, 21-3506, 21-3507, 21-3508, 21-3509, 21-3510, 21-3511, 21-3512, 21-3513, 21-3602 or 21-3603 and amendments thereto, the officer shall forthwith report such facts to the county or district attorney by a written report under oath, and the county or district attorney may submit such report to the judge of the district court. If the court finds from an examination of the report that there is evidence raising the issue of the mental illness of the person who was arrested, the court shall direct the county or district attorney to sign and file a petition to institute proceedings in accordance with the care and treatment act for mentally ill persons.

New Sec. 42. The arresting officer's report made pursuant to section 41 and amendments thereto shall not be available to inspection or copy by any persons other than the person arrested, that person's attorney, the county or district attorney and the judge of the district court.

Sec. 43. K.S.A. 1995 Supp. 12-1,109 is hereby amended to read as follows: 12-1,109. Gross earnings derived from the following shall be exempt from taxes levied by counties, cities and townships pursuant to this act:

(a) Notes secured by mortgages on real estate, which mortgages have been recorded in this state and the registration fee or tax thereon paid, as otherwise provided by law;

(b) all moneys, notes and other evidences of indebtedness held by the trustee of a qualified trust described in section 401, 408 or 501(c)(4), (5), (9), (17) or (18) of the internal revenue code of 1986, as amended (26 U.S.C. 401, 408 or 501(c)(4), (5), (9), (17) or (18)) which is part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of employees or their beneficiaries or health and welfare plan;

(c) (1) for the taxable year commencing after December 31, 1981, money, notes and other evidence of debt, to the extent of the tax liability hereinafter provided, which is owned by a person who has a disability or was 60 years of age or older on January 1 of the year in which an exemption is claimed hereunder. The exemption allowable under this subsection shall be in an amount equal to the lesser of the following: (A) The amount of the tax liability on the first \$3,000 of gross earnings from the money, notes and other evidence of debt; or (B) the amount of the tax liability on the first \$3,000 of gross earnings from such money, notes and other evidence of debt reduced by the amount that the owner's income exceeds \$12,500, including in such owner's income the income of such person's spouse, in the year next preceding that in which the exemption is claimed under this subsection. No person shall be eligible to claim an exemption hereunder in the same year in which such person's spouse has claimed an exemption hereunder. As used in this subsection, the terms "income" and "disability" shall have the meanings ascribed to them in K.S.A. 79-4502, and amendments thereto; and (2) for all taxable years commencing after December 31, 1982, money, notes and other evidences of debt, to the extent of the tax liability hereinafter provided, which is owned by a person who has a disability or was 60 years of age or older on January 1 of the year in which an exemption is claimed hereunder. The exemption allowable under this subsection shall be in an amount equal to the lesser of the following: (A) The amount of the tax liability on the first \$5,000 of gross earnings from the money, notes and other evidences of debt; or (B) the amount of the tax liability on the first \$5,000 of gross earnings from said money, notes and other evidences of debt reduced by the amount that the owner's income exceeds \$15,000, including in such owner's income the income of such person's spouse, in the year next preceding that in which the exemption is claimed under this subsection. No person shall be eligible to claim an exemption hereunder in the same year in which such person's spouse has claimed an exemption hereunder. As used in this subsection, the terms "income" and "disability" shall have the meanings ascribed to them in K.S.A. 79-4502, and amendments thereto;

(d) money, notes and other evidence of debt owned by any credit union, national banking association, state bank, trust company or federal or state-chartered savings and loan association;

(e) bonds or other evidence of indebtedness issued by the state, county, city, school district or other municipal or taxing subdivision of the state;

(f) except for distributions made from earnings or profits of any small business corporation, as defined by section 1371 of the internal revenue code as enacted in 1986 (26 U.S.C. 1371), accumulated by that corporation prior to the time that it has made the election under section 1372 of the internal revenue code of 1986 (26 U.S.C. 1372), all earnings or profit distributed by any such small business corporation having such an election in effect to a person who was a shareholder of such corporation at the time of the distribution;

(g) for all taxable years commencing after December 31, 1982, notes, other than notes described in subsection (a), to the extent that such earnings are a reimbursement of interest paid on another note the proceeds of which was the source of funds for the first note;

(h) money, notes and other evidence of debt belonging exclusively to a hospital, as defined by K.S.A. 65-425 and amendments thereto, or a psychiatric hospital, as defined by K.S.A. 59-2902 and 65-425, and amendments thereto, as in effect on January 1, 1976, operated by a not-for-profit corporation, and used exclusively for hospital or psychiatric hospital purposes;

(i) money, notes and other evidence of debt belonging exclusively to an adult care home as defined by K.S.A. 39-923, and amendments thereto, operated by a not-for-profit corporation, and used exclusively for adult care home purposes;

(j) money, notes and other evidence of debt belonging exclusively to a private children's home as defined by K.S.A. 75-3329, and amendments thereto, operated by a not-for-profit corporation, and used exclusively for children's home purposes;

(k) money, notes and other evidence of debt belonging exclusively to a corporation organized not-for-profit which operates housing for elderly persons having a limited or low income, which property and the income therefrom is used exclusively for housing for such elderly persons;

(l) shares, shares of stock or other evidence of ownership of national banking associations, state banks and federal or state-chartered savings and loan associations located or doing business within the state and shares of stock or other evidence of ownership of corporations holding stock of a national banking association, state bank and federal or state-chartered savings and loan associations located or doing business in Kansas, to the extent the income of such corporation is attributable to dividends received on such stock; and

(m) shares of stock issued by a corporation classified as a regulated investment company under the provisions of the federal internal revenue code of 1986, as amended.

Sec. 44. K.S.A. 22-3305 is hereby amended to read as follows: 22-3305. (1) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303 and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303 and amendments thereto, and the secretary shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending of the result of the involuntary commitment proceeding.

(2) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303 and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303 and amendments thereto, and the head of the treatment facility shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending that the defendant is to be discharged.

When giving notification to the court and the county or district attorney pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If no such request is made within 10 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302 and amendments thereto.

Sec. 45. K.S.A. 22-3428 is hereby amended to read as follows: 22-3428. (1) (a) When a defendant is acquitted and the jury answers in the affirmative to the special question asked pursuant to K.S.A. 22-3221 and amendments thereto, the defendant shall be committed to the state security hospital for safekeeping and treatment. A finding of not guilty and the jury answering in the affirmative to the special question asked pursuant to K.S.A. 22-3221 and amendments thereto, shall be prima facie evidence that the acquitted defendant is presently likely to cause harm to self or others.

(b) Within 90 days of the defendant's admission, the chief medical officer of the state security hospital shall send to the court a written evaluation report. Upon receipt of the report, the court shall set a hearing to determine whether or not the defendant is currently a mentally ill person. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's report.

(c) The court shall give notice of the hearing to the chief medical officer of the state security hospital, the district or county attorney, the defendant and the defendant's attorney. The court shall inform the de-

(continued)

defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney as provided in K.S.A. 22-4503 et seq. and amendments thereto. The defendant shall remain at the state security hospital pending the hearing.

(d) At the hearing, the defendant shall have the right to present evidence and cross-examine witnesses. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the defendant is not currently a mentally ill person, the court shall dismiss the criminal proceeding and discharge the defendant, otherwise the court may commit the defendant to the state security hospital for treatment or may place the defendant on conditional release pursuant to subsection (4).

(2) Subject to the provisions of subsection (3):

(a) Whenever it appears to the chief medical officer of the state security hospital that a person committed under subsection (1)(d) is not likely to cause harm to other persons in a less restrictive hospital environment, the officer may transfer the person to any state hospital, subject to the provisions of subsection (3). At any time subsequent thereto during which such person is still committed to a state hospital, if the chief medical officer of that hospital finds that the person may be likely to cause harm or has caused harm, to others, such officer may transfer the person back to the state security hospital.

(b) Any person committed under subsection (1)(d) may be granted conditional release or discharge as an involuntary patient.

(3) Before transfer of a person from the state security hospital pursuant to subsection (2)(a) or conditional release or discharge of a person pursuant to subsection (2)(b), the chief medical officer of the state security hospital or the state hospital where the patient is under commitment shall give notice to the district court of the county from which the person was committed that transfer of the patient is proposed or that the patient is ready for proposed conditional release or discharge. Such notice shall include, but not be limited to: (a) Identification of the patient; (b) the course of treatment; (c) a current assessment of the defendant's mental illness; (d) recommendations for future treatment, if any; and (e) recommendations regarding conditional release or discharge, if any. Upon receiving notice, the district court shall order that a hearing be held on the proposed transfer, conditional release or discharge. The court shall give notice of the hearing to the state hospital or state security hospital where the patient is under commitment and to the district or county attorney of the county from which the person was originally ordered committed and shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and the patient's attorney. The report of the court ordered mental evaluation shall be given to the district or county attorney, the involuntary patient and the patient's attorney at least five days prior to the hearing. The hearing shall be held within 30 days after the receipt by the court of the chief medical officer's notice. The involuntary patient shall remain in the state hospital or state security hospital where the patient is under commitment until the hearing on the proposed transfer, conditional release or discharge is to be held. At the hearing, the court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or the state hospital where the patient is under commitment, and shall determine whether the patient shall be transferred to a less restrictive hospital environment or whether the patient shall be conditionally released or discharged. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the district or county attorney. At the conclusion of the hearing, if the court finds by clear and convincing evidence that the patient will not be likely to cause harm to self or others if transferred to a less restrictive hospital environment, the court shall order the patient transferred. If the court finds by clear and convincing evidence that the patient is not currently a mentally ill person, the court shall order the patient discharged or conditionally released otherwise, the court shall order the patient to remain in the state security hospital or state hospital where the patient is under commitment. If the court orders the conditional release of the patient in accordance with subsection (4), the court may order as an additional condition to the release that the patient continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery to determine whether or not the patient is taking the medication or that the patient continue to receive periodic psychiatric or psychological treatment.

(4) In order to ensure the safety and welfare of a patient who is to be conditionally released and the citizenry of the state, the court may allow the patient to remain in custody at a facility under the supervision

of the secretary of social and rehabilitation services for a period of time not to exceed 30 days in order to permit sufficient time for the secretary to prepare recommendations to the court for a suitable reentry program for the patient. The reentry program shall be specifically designed to facilitate the return of the patient to the community as a functioning, self-supporting citizen, and may include appropriate supportive provisions for assistance in establishing residency, securing gainful employment, undergoing needed vocational rehabilitation, receiving marital and family counseling, and such other outpatient services that appear beneficial. If a patient who is to be conditionally released will be residing in a county other than the county where the district court that ordered the conditional release is located, the court shall transfer venue of the case to the district court of the other county and send a copy of all of the court's records of the proceedings to the other court. In all cases of conditional release the court shall: (a) Order that the patient be placed under the temporary supervision of state parole and probation services, district court probation and parole services, community treatment facility or any appropriate private agency; and (b) require as a condition precedent to the release that the patient agree in writing to waive extradition in the event a warrant is issued pursuant to K.S.A. 22-3428b and amendments thereto.

(5) At any time during the conditional release period, a conditionally released patient, through the patient's attorney, or the county or district attorney of the county in which the district court having venue is located may file a motion for modification of the conditions of release, and the court shall hold an evidentiary hearing on the motion within 15 days of its filing. The court shall give notice of the time for the hearing to the patient and the county or district attorney. If the court finds from the evidence at the hearing that the conditional provisions of release should be modified or vacated, it shall so order. If at any time during the transitional period the designated medical officer or supervisory personnel or the treatment facility informs the court that the patient is not satisfactorily complying with the provisions of the conditional release, the court, after a hearing for which notice has been given to the county or district attorney and the patient, may make orders: (a) For additional conditions of release designed to effect the ends of the reentry program, (b) requiring the county or district attorney to file an application *a petition* to determine whether the patient is a mentally ill person as provided in ~~K.S.A. 59-2013~~ *section 13* and amendments thereto, or (c) requiring that the patient be committed to the state security hospital or any state hospital. In cases where an application is ordered to be filed, the court shall proceed to hear and determine the application pursuant to the *care and treatment* act for mentally ill persons and that act shall apply to all subsequent proceedings. The costs of all proceedings, the mental evaluation and the reentry program authorized by this section shall be paid by the county from which the person was committed.

(6) In any case in which the defense that the defendant lacked the required mental state pursuant to K.S.A. 22-3220 is relied on, the court shall instruct the jury on the substance of this section.

(7) As used in this section and K.S.A. 22-3428a and amendments thereto:

(a) "Likely to cause harm to self or others" means that the person is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, or evidenced by behavior causing, attempting or threatening such injury, abuse or neglect.

(b) "Mentally ill person" means any person who:

(A) Is suffering from a severe mental disorder to the extent that such person is in need of treatment; and

(B) is likely to cause harm to self or others.

(c) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, psychologist, physician or other institution or individual authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

Sec. 46. K.S.A. 22-4503 is hereby amended to read as follows: 22-4503. (a) A defendant charged by the state of Kansas in a complaint, information or indictment with any felony is entitled to have the assistance of counsel at every stage of the proceedings against such defendant and a defendant in an extradition proceeding, or a habeas corpus proceeding pursuant to K.S.A. 22-2710 and amendments thereto, is entitled to have assistance of counsel at such proceeding. A person subject to an order or commitment pursuant to K.S.A. 22-3428 or ~~59-2017~~ *section 21* and amendments thereto, shall be entitled to the assistance of counsel at every stage of a habeas corpus proceeding brought by such person and the provisions of this section relating to defendants shall be applicable to such persons.

(b) If such a defendant appears before any court without counsel to assist and conduct the defendant's defense, it shall be the duty of the court to inform the defendant that such defendant is entitled to counsel and that counsel will be appointed to represent the defendant if the defendant is not financially able to employ an attorney. The court shall give the defendant an opportunity to employ counsel of the defendant's own choosing if the defendant states the defendant is able to do so. If the defendant asks to consult with counsel of the defendant's own choosing, the defendant shall be given a reasonable opportunity to do so.

(c) If it is determined that the defendant is not able to employ counsel, as provided in K.S.A. 22-4504 and amendments thereto, the court shall appoint an attorney from the panel for indigents' defense services or otherwise in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. A record of the proceedings provided for by this section shall be entered in the journal, and any order binding the defendant for trial or directing further detention upon the charge and the journal entry of trial and judgment shall recite the substance of such proceedings.

(d) Counsel employed by or appointed for the defendant shall have free access to the defendant at all times for the purpose of conferring with the defendant relative to the charge, for advising the defendant respecting the defendant's plea and for the preparation of the defense, if a defense is to be made. It is the duty of an attorney appointed by the court to represent a defendant, without charge to such defendant, to inform the defendant fully of the crime charged against the defendant and the penalty therefor, and in all respects fully and fairly to represent the defendant in the action.

(e) If, after the attorney's appointment, the attorney learns that the defendant has funds or other resources sufficient to enable the defendant to employ counsel, the attorney shall report these facts to the court and ask permission to withdraw from the case or to be permitted to accept compensation for services.

Sec. 47. K.S.A. 28-170 is hereby amended to read as follows: 28-170.

(a) The docket fee prescribed by K.S.A. 60-2001 and amendments thereto shall be the only costs assessed for services of the clerk of the district court and the sheriff in any case filed under chapter 60 of the Kansas Statutes Annotated. For services in other matters in which no other fee is prescribed by statute, the following fees shall be charged and collected by the clerk. Only one fee shall be charged for each bond, lien or judgment:

- 1. For filing, entering and releasing a bond, mechanic's lien, notice of intent to perform, personal property tax judgment or any judgment on which execution process cannot be issued \$5
- 2. For filing, entering and releasing a judgment of a court of this state on which execution or other process can be issued 15
- 3. For a certificate, or for copying or certifying any paper or writ, such fee as shall be prescribed by the district court.

(b) The fees for entries, certificates and other papers required in naturalization cases shall be those prescribed by the federal government and, when collected, shall be disbursed as prescribed by the federal government. The clerk of the court shall remit to the state treasurer at least monthly all moneys received from fees prescribed by subsection (a) or (b) or received for any services performed which may be required by law. The state treasurer shall deposit the remittance in the state treasury and credit the entire amount to the state general fund.

(c) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 *et seq.* and amendments thereto), the Kansas juvenile offenders code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments thereto) or the *care and treatment* act for mentally ill persons (K.S.A. 59-2901 *et seq.* and amendments thereto), the clerk shall charge an additional fee of \$1 which shall be deducted from the docket fee and credited to the prosecuting attorneys' training fund as provided in K.S.A. 28-170a and amendments thereto.

(d) In actions pursuant to the Kansas code for care of children (K.S.A. 38-1501 *et seq.* and amendments thereto), the Kansas juvenile offenders code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and amendments thereto) or the *care and treatment* act for mentally ill persons (K.S.A. 59-

2901 *section 1 et seq.* and amendments thereto), the clerk shall charge an additional fee of \$.50 which shall be deducted from the docket fee and credited to the indigents' defense services fund as provided in K.S.A. 28-172b and amendments thereto.

Sec. 48. K.S.A. 38-1505 is hereby amended to read as follows: 38-1505. (a) *Appointment of guardian ad litem, duties.* Upon the filing of a petition the court shall appoint a person who is an attorney to serve as guardian *ad litem* for a child who is the subject of proceedings under this code. The guardian *ad litem* shall make an independent investigation of the facts upon which the petition is based and shall appear for and represent the child.

(b) *Attorney for parent or custodian.* A parent or custodian of a child alleged or adjudged to be a child in need of care may be represented by an attorney, other than the guardian *ad litem* appointed for the child, in connection with all proceedings under this code. If at any stage of the proceedings a parent desires but is financially unable to employ an attorney, the court shall appoint an attorney for the parent. It shall not be necessary to appoint an attorney to represent a parent who fails or refuses to attend the hearing after having been properly served with process in accordance with K.S.A. 38-1534 and amendments thereto. A parent or custodian who is not a minor, a mentally ill person as defined in K.S.A. 59-2902 *section 2* and amendments thereto or a disabled person as defined in K.S.A. 59-3002 and amendments thereto may waive counsel either in writing or on the record.

(c) *Attorney for parent who is a minor, mentally ill or disabled.* The court shall appoint an attorney for a parent who is a minor, a mentally ill person as defined in K.S.A. 59-2902 and amendments thereto or a disabled person as defined in K.S.A. 59-3002 and amendments thereto, unless the court determines that there is an attorney retained who will appear and represent the interests of the person in the proceedings under this code.

(d) *Continuation of representation.* A guardian *ad litem* appointed for a child or an attorney appointed for a parent or custodian shall continue to represent the client at all subsequent hearings in proceedings under this code, including any appellate proceedings, unless relieved by the court upon a showing of good cause or upon transfer of venue.

(e) *Fees for counsel.* A guardian *ad litem* or attorney appointed for parties to proceedings under this section shall be allowed a reasonable fee for their services, which may be assessed as an expense in the proceedings as provided in K.S.A. 38-1511 and amendments thereto.

Sec. 49. K.S.A. 1995 Supp. 38-1513 is hereby amended to read as follows: 38-1513. (a) *Physical or mental care and treatment.* (1) When a child less than 18 years of age is alleged to have been sexually abused, no consent shall be required to medically examine the child to determine whether there has been sexual abuse.

(2) When the health or condition of a child who is a ward of the court requires it, the court may consent to the performing and furnishing of hospital, medical, surgical or dental treatment or procedures, including the release and inspection of medical or dental records. A child, or parent of any child, who is opposed to certain medical procedures authorized by this subsection may request an opportunity for a hearing thereon before the court. Subsequent to the hearing, the court may limit the performance of matters provided for in this subsection or may authorize the performance of those matters subject to terms and conditions the court considers proper.

(3) Prior to adjudication the person having custody of the child may give consent to the following:

- (A) Dental treatment for the child by a licensed dentist;
- (B) diagnostic examinations of the child, including but not limited to the withdrawal of blood or other body fluids, x-rays and other laboratory examinations;
- (C) releases and inspections of the child's medical history records;
- (D) immunizations for the child;
- (E) administration of lawfully prescribed drugs to the child; and
- (F) examinations of the child including, but not limited to, the withdrawal of blood or other body fluids or tissues, for the purpose of determining the child's parentage.

(4) When the court has granted legal custody of a child in a dispositional hearing to any agency, association or individual, the custodian or an agent designated by the custodian shall have authority to consent to the performance and furnishing of hospital, medical, surgical or dental treatment or procedures or mental care or treatment other than inpatient treatment at a state psychiatric hospital, including the release and in-

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spection of medical or hospital records, subject to terms and conditions the court considers proper.

(5) If a child is already in the custody of the secretary, the secretary may consent to the mental care and treatment of the child, without court approval, so long as such care and treatment do not include inpatient treatment at a state psychiatric hospital.

(6) Any health care provider who in good faith renders hospital, medical, surgical, mental or dental care or treatment to any child after a consent has been obtained as authorized by this section shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

(7) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to provide care and support for a child.

(b) *Mental care and treatment requiring court action.* If it is brought to the court's attention, while the court is exercising jurisdiction over the person of a child under this code, that the child may be a mentally ill person as defined in K.S.A. 59-2902 section 2 and amendments thereto, the court may:

(1) Direct or authorize the county or district attorney or the person supplying the information to file the application petition provided for in K.S.A. 59-2913 section 13 and amendments thereto and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for mentally ill persons; or

(2) authorize that the child seek voluntary admission to a treatment facility as provided in K.S.A. 59-2905 section 5 and amendments thereto.

The application to determine whether the child is a mentally ill person may be filed in the same proceedings as the petition alleging the child to be a child in need of care, or may be brought in separate proceedings. In either event the court may enter an order staying any further proceedings under this code until all proceedings have been concluded under the care and treatment act for mentally ill persons.

Sec. 50. K.S.A. 38-1614 is hereby amended to read as follows: 38-1614. (a) *Physical care and treatment.* (1) When the health or condition of a juvenile who is subject to the jurisdiction of the court requires it, the court may consent to the performing and furnishing of hospital, medical, surgical or dental treatment or procedures including the release and inspection of medical or dental records.

(2) When the health or condition of a juvenile requires it and the juvenile has been placed in the custody of a person other than a parent or placed in or committed to a facility, the custodian or an agent designated by the custodian shall have authority to consent to the performance and furnishing of hospital, medical, surgical or dental treatment or procedures including the release and inspection of medical or dental records, subject to terms and conditions the court considers proper. The provisions of this subsection shall also apply to juvenile felons, as defined in K.S.A. 38-16,112, and amendments thereto, who have been placed in a youth center pursuant to K.S.A. 75-5206, and amendments thereto.

(3) Any health care provider, who in good faith renders hospital, medical, surgical or dental care or treatment to any juvenile after a consent has been obtained as authorized by this section, shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to provide care and support for a juvenile.

(b) *Mental care and treatment.* If it is brought to the court's attention, while the court is exercising jurisdiction over the person of a juvenile under this code, that the juvenile may be a mentally ill person as defined in K.S.A. 59-2902, section 2 and amendments thereto, the court may:

(1) Direct or authorize the county or district attorney or the person supplying the information to file the application petition provided for in K.S.A. 59-2913, section 13 and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for mentally ill persons; or

(2) authorize that the juvenile seek voluntary admission to a treatment facility as provided in K.S.A. 59-2905, section 5 and amendments thereto.

The application to determine whether the juvenile is a mentally ill person may be filed in the same proceedings as the petition alleging the juvenile to be a juvenile offender or may be brought in separate proceedings. In either event, the court may enter an order staying any further proceedings under this code until all proceedings have been concluded under the care and treatment act for mentally ill persons.

Sec. 51. K.S.A. 39-1602 is hereby amended to read as follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612 and amendments thereto:

(a) "Targeted population" means the population group designated by rules and regulations of the secretary as most in need of mental health services which are funded, in whole or in part, by state or other public funding sources, which group shall include adults with severe and persistent mental illness, severely emotionally disturbed children and adolescents, and other individuals at risk of requiring institutional care.

(b) "Community based mental health services" includes, but is not limited to, evaluation and diagnosis, case management services, mental health inpatient and outpatient services, prescription and management of psychotropic medication, prevention, education, consultation, treatment and rehabilitation services, twenty-four-hour emergency services, and any facilities required therefor, which are provided within one or more local communities in order to provide a continuum of care and support services to enable mentally ill persons, including targeted population members, to function outside of inpatient institutions to the extent of their capabilities. Community based mental health services also include assistance in securing employment services, housing services, medical and dental care, and other support services.

(c) "Mental health center" means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(d) "Secretary" means the secretary of social and rehabilitation services.

(e) "Department" means the department of social and rehabilitation services.

(f) "State psychiatric hospital" means Osawatomi state hospital, Rainbow mental health facility, Topeka state hospital or Larned state hospital.

(g) "Mental health reform phased program" means the program in three phases for the implementation of mental health reform in Kansas as follows:

(1) The first phase covers the counties in the Osawatomi state hospital catchment area and is to commence on July 1, 1990, and is to be completed by June 30, 1994;

(2) the second phase covers the counties in the Topeka state hospital catchment area and is to commence on July 1, 1992, and is to be completed by June 30, 1996; and

(3) the third phase covers the counties in the Larned state hospital catchment area and is to commence on July 1, 1993, and is to be completed by June 30, 1997.

(h) "Screening" means the process performed by a participating community mental health center, pursuant to a contract entered into with the secretary under K.S.A. 39-1610 and amendments thereto, to determine whether a person, under either voluntary or involuntary procedures, can be evaluated or treated, or can be both evaluated and treated, in the community or should be referred to the appropriate state psychiatric hospital for such treatment or evaluation or for both treatment and evaluation.

(i) "Osawatomi state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Allen, Anderson, Atchison, Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk, Franklin, Jefferson, Johnson, Labette, Leavenworth, Linn, Miami, Montgomery, Neosho, Wilson, Woodson and Wyandotte.

(j) "Topeka state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Brown, Chase, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Ellsworth, Geary, Greenwood, Harvey, Jackson, Jewell, Lincoln, Lyon, Marion, Marshall, McPherson, Mitchell, Morris, Nemaha, Osage, Ottawa, Pottawatomie, Republic, Riley, Saline, Sedgwick, Shawnee, Wabaunsee and Washington.

(k) "Larned state hospital catchment area" means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Harper, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Lane, Logan, Meade, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno, Rice, Rooks, Rush, Russell, Scott, Seward, Sheri-

dan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and Wichita.

(l) "Catchment area" means the Osawatomie state hospital catchment area, the Topeka state hospital catchment area or the Larned state hospital catchment area.

(m) "Participating mental health center" means a mental health center which has entered into a contract with the secretary of social and rehabilitation services to provide screening, treatment and evaluation, court ordered evaluation and other treatment services pursuant to the *care and treatment act* for mentally ill persons, in keeping with the phased concept of the mental health reform act.

Sec. 52. K.S.A. 39-1610 is hereby amended to read as follows: 39-1610. (a) Prior to January 1, 1991, for the Osawatomie state hospital catchment area, prior to July 1, 1992, for the Topeka state hospital catchment area and prior to July 1, 1993, for the Larned state hospital catchment area, the secretary shall enter into contracts with mental health centers so that there is a participating mental health center for each area of the state. Each participating mental health center entering into a contract with the secretary under this section shall provide screening, treatment and evaluation, court ordered evaluation and other treatment services pursuant to the *care and treatment act* for mentally ill persons.

(b) Subject to the provisions of this act and appropriations acts, the secretary shall administer and disburse funds to each mental health center for the coordination and provision of mental health services for all persons who are residents of the service delivery area of such mental health center.

(c) Subject to and in accordance with the provisions of this act and appropriations acts, the secretary shall undertake, in cooperation with participating mental health centers, the establishment and implementation of the mental health reform phased program.

(1) Beginning with the Osawatomie state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of the Osawatomie state hospital as follows:

(A) One unit of 20 to 30 beds for adults shall be closed by June 30, 1991;

(B) by June 30, 1992, an additional unit or units comprising 20 to 30 beds shall be closed for adolescents; and

(C) by June 30, 1993, an additional unit or units comprising 20 to 30 adult beds shall be closed.

(2) For the Topeka state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Topeka state hospital as follows:

(A) One or more units comprising 20 to 30 adolescent beds shall be closed by June 30, 1993;

(B) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1994; and

(C) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1995.

(3) For the Larned state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Larned state hospital by closing one or more units comprising 20 to 30 adult beds in each of the fiscal years ending June 30, 1994, June 30, 1995, and June 30, 1996.

(d) The staff of each state psychiatric hospital and the staff of the participating mental health centers in the catchment area of the state psychiatric hospital shall develop and implement admission and discharge criteria for all patients. The provisions of this section shall be incorporated into all contracts entered into between the secretary and the participating mental health centers.

(e) A participating mental health center may expend funds received from the secretary to contract with a contracting agency for the purchase of administrative, financial and other nonclinical services from such contracting agency as may be needed to assist the participating mental health center to carry out the provisions of the contract entered into by the center with the secretary.

Sec. 53. K.S.A. 1995 Supp. 59-212 is hereby amended to read as follows: 59-212. (a) The following shall be kept by the court for proceedings under chapter 59 of the Kansas Statutes Annotated:

(1) An appearance docket, in which shall be listed under the name of the decedent, ward, conservatee, mentally ill person, or other person involved, all documents pertaining thereto and in the order filed, except that separate appearance dockets, not open to public inspection shall be kept for proceedings under the *care and treatment act* for mentally ill persons and adoptions. Such list shall show the nature of the document,

the date of the filing thereof, shall give a reference to the volume and page of any other book or reference to microfilm in which any record shall have been made of such document, and shall state the charge, if any, therefor.

(2) A suitable general index, in which files pertaining to estates of decedents shall be indexed under the name of the decedent, those pertaining to guardianships under the name of the ward, those pertaining to conservatorships under the name of the conservatee, those pertaining to mentally ill persons under the name of such person, those pertaining to adoption of children under both the name and adopted name of the child. After the name of each file shall be shown the case number.

(b) Suitable permanent duplicate copies of the following, kept by the district court prior to the effective date of this act, may be disposed of at the discretion of the district court: (1) All wills admitted to probate; (2) all elections filed; (3) all letters of appointment issued; (4) all certificates of appointment filed; (5) all bonds filed; (6) all orders, judgments and decrees, including inheritance tax orders; (7) appearance docket sheets; (8) journals; (9) copies of journal entries of judgment; and (10) such other documents as the court may determine.

Sec. 54. K.S.A. 59-214 is hereby amended to read as follows: 59-214. The books and records of the district court involving proceedings pursuant to chapter 59 of the Kansas Statutes Annotated shall be open to inspection by all persons at all times, except as provided in adoption proceedings, in ~~K.S.A. 59-2931~~ section 35 and amendments thereto or in K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, as applicable. The court shall furnish a certified or authenticated copy of any document on file or of record which is open to public inspection, upon payment therefor. The court, in making certified or authenticated copies of letters of appointment, is authorized upon request to certify further whenever such is the fact, that the letters so certified stand unrevoked at the date of the certificate; and such certificate shall be prima facie evidence of such fact.

Sec. 55. K.S.A. 59-2212 is hereby amended to read as follows: 59-2212. Trials and hearings in probate proceedings shall be by the court unless otherwise provided by law. The determination of any issue of fact or controverted matter on the hearing of any probate proceedings shall be in accordance with the rules of evidence provided for civil cases by the code of civil procedure, except as provided in the *care and treatment act* for mentally ill persons and the act for obtaining a guardian or conservator, or both.

Sec. 56. K.S.A. 59-3002 is hereby amended to read as follows: 59-3002. When used in the act for obtaining a guardian or conservator, or both:

(a) "Disabled person" means any adult person whose ability to receive and evaluate information effectively or to communicate decisions, or both, is impaired to such an extent that the person lacks the capacity to manage such person's financial resources or, except for reason of indigency, to meet essential requirements for such person's physical health or safety, or both. A person shall not be considered to be disabled or to lack capacity to meet the essential requirements for physical health or safety for the sole reason such person relies upon or is being furnished treatment by spiritual means through prayer, in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination of which such person is a member or adherent.

(b) "Manage financial resources" means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits and income.

(c) "Meet essential requirements for physical health or safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which serious physical injury or illness is more likely than not to occur.

(d) "Guardian" means an individual or a nonprofit corporation certified in accordance with K.S.A. 59-3037 and amendments thereto which has been appointed by a court to act on behalf of a ward and possessed of some or all of the powers and duties set out in K.S.A. 59-3018 and amendments thereto. "Guardian" does not mean natural guardian unless specified.

(e) "Natural guardian" means both the father and mother of a minor if neither parent has been found to be a disabled person or had parental rights terminated by a court of competent jurisdiction. If either parent of a minor dies, has been found to be a disabled person or has had parental rights terminated by a court of competent jurisdiction, the other shall be the natural guardian.

(continued)

(f) "Conservator" means an individual or a corporation who is appointed by the court to act on behalf of a conservatee and who is possessed of some or all of the powers and duties set out in K.S.A. 59-3019 and amendments thereto.

(g) "Minor" means any person defined by K.S.A. 38-101 and amendments thereto as being within the period of minority.

(h) "Proposed ward" means a person for whom a petition for the appointment of a guardian pursuant to K.S.A. 59-3006 and amendments thereto has been filed.

(i) "Proposed conservatee" means a person for whom a petition for the appointment of a conservator pursuant to K.S.A. 59-3006 and amendments thereto has been filed.

(j) "Ward" means a person who has a guardian.

(k) "Conservatee" means a person who has a conservator.

(l) The terms defined in ~~K.S.A. 59-2002~~ section 2 and amendments thereto have the meanings provided by that statute.

Sec. 57. K.S.A. 59-3010 is hereby amended to read as follows: 59-3010. Upon the filing of the petition provided for in K.S.A. 59-3009 and amendments thereto:

(a) When the proposed ward or proposed conservatee is alleged to be a disabled person, the district court shall issue the following:

(1) An order fixing the time and place of the hearing on the petition. The time designated in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition.

(2) An order that the proposed ward or proposed conservatee appear at the time and place of the hearing unless the court enters an order that the presence of the proposed ward or proposed conservatee is injurious to the welfare of the proposed ward or proposed conservatee. The court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or proposed conservatee at the hearing would be injurious to such person's welfare. Notwithstanding the foregoing provisions of this subsection, if the proposed ward or proposed conservatee requests in writing to the court or to such person's attorney that such person be present at the hearing then such person's presence cannot be waived.

(3) An order appointing an attorney to represent the proposed ward or proposed conservatee at all stages of the proceedings. The court shall give preference, in the appointment of the attorney, to any attorney who has represented the proposed ward or proposed conservatee in other matters if the court has knowledge of the prior relationship. The proposed ward or proposed conservatee shall have the right to choose and to engage an attorney and, in such an event, the attorney appointed herein shall be relieved of all duties by the court.

(4) An order that the proposed ward or proposed conservatee shall appear at a time and place that is in the best interest of the proposed ward or proposed conservatee to consult with the court appointed attorney, which time shall be prior to the execution of the order for mental evaluation, if one is to be issued, unless an *ex parte* emergency custody order of protective custody provided for in ~~K.S.A. 59-2012~~, section 14 and amendments thereto or a temporary custody order provided for in section 15 and amendments thereto, has been issued and detention of the proposed ward or proposed conservatee thereunder is in a place outside the jurisdiction of the court.

(5) A notice in the manner provided for in K.S.A. 59-3012 and amendments thereto.

(6) An order for mental evaluation. Such order may be served on the proposed ward or proposed conservatee at the same time or after notice is given. It shall be served in the manner provided for in K.S.A. 59-3012 and amendments thereto. It shall order the proposed ward or proposed conservatee to submit for a mental evaluation and to undergo such evaluation at a general hospital or a psychiatric hospital, an institution within the department of social and rehabilitation services, mental health clinic, private psychiatrist, physician or psychologist designated by the court in the order. An institution within the department of social and rehabilitation services shall receive and evaluate any proposed ward or proposed conservatee ordered evaluated therein. At the time designated by the court in the order, but in no event later than three days prior to the date of the hearing provided for in K.S.A. 59-3013 and amendments thereto, the examiner shall submit to the court a report, in writing, of the evaluation which report also shall be made available to counsel for the parties at least three days prior to such hearing. Such report shall state that the examiner has made an independent evaluation and examination of the proposed ward or proposed conservatee and shall state the results of the examination on the issue of whether the proposed ward or proposed conservatee is a disabled person.

(b) When the proposed ward or proposed conservatee is alleged to be a minor, the court shall issue an order fixing the time and place of the hearing on the petition. If the petition is filed on behalf of the minor by such minor's next friend or by the natural guardian of the minor, the time of the hearing designated in the order may be forthwith and without notice, but in no event later than 14 days after the date of filing of the petition. In all other cases the time designated in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition.

(c) When the proposed conservatee has been duly adjudged an incapacitated person, a disabled person, an insane person or an incompetent person and a conservator or guardian of such person's estate has been appointed by any court of competent jurisdiction of any other state, the court, relying upon the petition which incorporates the duly authenticated transcript required by subsection (c) of K.S.A. 59-3009 and amendments thereto, shall issue an order fixing the time and place of the hearing, which hearing may be held immediately and without notice.

Sec. 58. K.S.A. 59-3013 is hereby amended to read as follows: 59-3013. The hearing shall be held at the time and place specified in the court's order, unless an advancement or a continuance has been granted, and may be consolidated with the hearing provided for in ~~K.S.A. 59-2017~~ section 21 and amendments thereto. The hearing shall be held to the court only, unless the court shall determine that it shall be held before a jury or unless the proposed ward or proposed conservatee shall, at least 48 hours prior to the time of the hearing, request in writing a hearing before a jury.

The jury, if one is ordered or requested, shall consist of six persons and shall be selected in the manner provided in ~~K.S.A. 59-2017~~ section 21 and amendments thereto.

The petitioner and the proposed ward or proposed conservatee shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. All persons not necessary for the conduct of the proceedings may be excluded. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the proposed ward or proposed conservatee. The court shall receive all relevant and material evidence which may be offered, including the testimony or written findings and recommendations of the hospital, clinic, physician or psychologist who has examined or evaluated the proposed ward or proposed conservatee and the testimony and written findings and recommendations of the investigators appointed pursuant to subsection (a)(1) of K.S.A. 59-3011 and amendments thereto. Such evidence shall not be privileged for the purpose of this hearing.

If the proposed conservatee has been duly adjudged an incapacitated person, a disabled person, an insane person or an incompetent person by any court of competent jurisdiction in any other state and a domiciliary conservator or guardian for the estate of such person has been appointed, and such facts have been established in accordance with subsection (c) of K.S.A. 59-3009 and amendments thereto, the court shall appoint a suitable ancillary conservator.

If, upon the completion of the hearing, the court or jury finds by clear and convincing evidence that the proposed ward or proposed conservatee is a disabled person in need of a guardian or conservator, or both, or if the court or jury finds that the proposed ward or proposed conservatee is a minor in need of a guardian or conservator, or both, the court shall make a finding as to what extent the disabled person is able to, and should be permitted to, make decisions which affect that person and the court shall specifically set forth such findings of fact in the court's order and pursuant to K.S.A. 59-3014 and amendments thereto shall appoint one or more suitable individuals or corporations as guardian or conservator, or both, of such disabled person.

If, upon the completion of the hearing, the court or jury finds that clear and convincing evidence that the proposed ward or proposed conservatee is a disabled person or a minor has not been shown, the court shall enter the finding in the record and the court by an appropriate order shall terminate the proceedings.

Sec. 59. K.S.A. 59-3018a is hereby amended to read as follows: 59-3018a. (a) A guardian may file with the court a verified petition to place seeking authority to be able to admit the guardian's ward in to a treatment facility. Upon the filing of such petition, the court shall issue the following:

(1) An order fixing the time and place of the hearing on the petition. The time designated in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition.

(2) An order that the ward appear at the time and place of the hearing unless the court enters an order that the presence of the ward would be

injurious to the ward's welfare. The court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the ward at the hearing would be injurious to the ward's welfare. Notwithstanding the foregoing provisions of this subsection, if the ward or the ward's attorney files with the court a written request that the ward be present at the hearing, the ward's presence cannot be waived.

(3) An order appointing an attorney to represent the ward at all stages of the proceedings. The court shall give preference, in the appointment of the attorney, to any attorney who has represented the ward in other matters if the court has knowledge of the prior relationship. The ward shall have the right to choose and to engage an attorney and, in that event, the attorney appointed by the court shall be relieved of all duties by the court.

(4) An order that the ward appear at the time and place that is in the best interest of the ward to consult with the court appointed attorney, which time shall be prior to the hearing on the petition.

(5) Notice in the manner provided by subsections (a)(1)(A) through (C), (a)(2) and (b) of K.S.A. 59-3012 and amendments thereto.

(b) At or after the filing of a petition pursuant to this section, the court may issue the following:

(1) An order for mental evaluation in the manner provided by subsection (a)(6) of K.S.A. 59-3012 and amendments thereto.

(2) An order of continuance, for good cause shown, upon request of the petitioner, the ward or the ward's attorney.

(3) An order advancing the date of the hearing to as early a date as is practicable upon request of the ward or the ward's attorney.

(c) The hearing on a petition filed pursuant to this section shall be held at the time and place specified in the court's order unless an advancement or continuance has been granted. The hearing shall be to the court only. The petitioner and the ward shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. All persons not necessary for the conduct of the hearing may be excluded. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the ward. The court shall receive all relevant and material evidence which may be offered, including the testimony or written findings and recommendations of the treatment facility, hospital, clinic, physician or psychologist who has examined or evaluated the ward. Such evidence shall not be privileged for the purpose of this hearing.

If, upon the completion of the hearing, the court finds by clear and convincing evidence that the criteria set out in subsection (h) of K.S.A. 59-2902 (e) of section 2 and amendments thereto or K.S.A. 76-12b03 and amendments thereto are met, and after a careful consideration of reasonable alternatives to placement treatment, the court may enter an order authorizing the guardian to admit the ward to an appropriate treatment facility. The order of the court granting such authority to the guardian as is appropriate, including continuing authority to readmit the ward to an appropriate treatment facility as may become necessary. Any such grant of continuing authority shall expire two years after the date of final discharge of the ward from such a treatment facility if the ward has not had to be readmitted to that type of a treatment facility during that two-year period of time. Thereafter any such grant of continuing authority may be renewed only after the filing of another petition in compliance with the provisions of this section. Any admission of the ward made pursuant to such authority shall be subject to periodic review in the manner set out in K.S.A. 59-2919a section 25 and amendments thereto. For those wards who were admitted to a treatment facility prior to the effective date of this act, a hearing as set forth herein shall be held at the next annual review required by K.S.A. 59-3029 and amendments thereto, or within 30 days after such date, whichever is later.

(d) Except as otherwise provided by law, a ward may voluntarily consent to the ward's admission to a treatment facility if able and permitted to do so according to the court's findings of fact set forth in the court's order issued at the conclusion of the hearing on the petition for guardianship.

(e) This section shall be part of and supplemental to the act for obtaining a guardian or conservator, or both.

Sec. 60. K.S.A. 1995 Supp. 65-5601 is hereby amended to read as follows: 65-5601. As used in K.S.A. 65-5601 to 65-5605, inclusive:

(a) "Patient" means a person who consults or is examined or interviewed by treatment personnel.

(b) "Treatment personnel" means any employee of a treatment facility who receives a confidential communication from a patient while engaged in the diagnosis or treatment of a mental, alcoholic, drug de-

pendency or emotional condition, if such communication was not intended to be disclosed to third persons.

(c) "Ancillary personnel" means any employee of a treatment facility who is not included in the definition of treatment personnel.

(d) "Treatment facility" means a community mental health center, community service provider, psychiatric hospital and state institution for the mentally retarded.

(e) "Head of the treatment facility" means the administrative director of a treatment facility or the designee of the administrative director.

(f) "Community mental health center" means a mental health clinic or community mental health center licensed under K.S.A. 75-3307b and amendments thereto.

(g) "Psychiatric hospital" means Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Topeka state hospital and hospitals licensed under K.S.A. 75-3307b and amendments thereto.

(h) "State institution for the mentally retarded" means Norton state hospital, Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(i) "Community service provider" means: (1) A community facility for the mentally retarded organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto; (2) community service provider as provided in the developmental disabilities reform act; or (3) a nonprofit corporation which provides services for the mentally retarded pursuant to a contract with a mental retardation governing board.

Sec. 61. K.S.A. 65-5603 is hereby amended to read as follows: 65-5603. (a) The privilege established by K.S.A. 65-5602 and amendments thereto shall not extend to:

(1) Any communication relevant to an issue in proceedings to involuntarily commit to treatment a patient for mental illness, alcoholism or drug dependency if the treatment personnel in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) an order for examination of the mental, alcoholic, drug dependency or emotional condition of the patient which is entered by a judge, with respect to the particular purpose for which the examination is ordered;

(3) any proceeding in which the patient relies upon any of the aforementioned conditions as an element of the patient's claim or defense, or, after the patient's death, in any proceeding in which any party relies upon any of the patient's conditions as an element of a claim or defense;

(4) any communication which forms the substance of information which the treatment personnel or the patient is required by law to report to a public official or to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed;

(5) any information necessary for the emergency treatment of a patient or former patient if the head of the treatment facility at which the patient is being treated or was treated states in writing the reasons for disclosure of the communication and makes such statement a part of the treatment or medical record of the patient;

(6) information relevant to protect a person who has been threatened with substantial physical harm by a patient during the course of treatment, when such person has been specifically identified by the patient, the treatment personnel believes there is substantial likelihood that the patient will act on such threat in the reasonable foreseeable future and the head of the treatment facility has concluded that notification should be given. The patient shall be notified that such information has been communicated;

(7) any information from a state psychiatric hospital to appropriate administrative staff of the department of corrections whenever patients have been administratively transferred to a state psychiatric hospital pursuant to the provisions of K.S.A. 75-5209 and amendments thereto;

(8) any information to the patient or former patient, except that the head of the treatment facility at which the patient is being treated or was treated may refuse to disclose portions of such records if the head of the treatment facility states in writing that such disclosure will be injurious to the welfare of the patient or former patient;

(9) any information to any state or national accreditation, certification or licensing authority, or scholarly investigator, but the head of the treatment facility shall require, before such disclosure is made, a pledge that the name of any patient or former patient shall not be disclosed to any person not otherwise authorized by law to receive such information;

(continued)

(10) any information to Kansas advocacy and protective services, inc. which concerns individuals who reside in a treatment facility and which is required by federal law and federal rules and regulations to be available pursuant to a federal grant-in-aid program;

(11) any information relevant to the collection of a bill for professional services rendered by a treatment facility; or

(12) any information sought by a coroner serving under the laws of Kansas when such information is material to an investigation or proceeding conducted by the coroner in the performance of such coroner's official duties. Information obtained by a coroner under this provision shall be used for official purposes only and shall not be made public unless admitted as evidence by a court or for purposes of performing the coroner's statutory duties; or

(13) any communication and information between or among treatment facilities regarding a proposed patient, patient or former patient for purposes of promoting continuity of care in between the state psychiatric hospital during treatment and in the community following discharge or conditional release hospitals and the community mental health centers; the proposed patient, patient, or former patient's consent shall not be necessary to share evaluation and treatment records between or among treatment facilities regarding a proposed patient, patient or former patient; as used in this paragraph (13), "proposed patient" and "patient" shall have the meanings respectively ascribed thereto in K.S.A. 59-2902 section 2 and amendments thereto; or

(14) the name, date of birth, date of death, name of any next of kin and place of residence of a deceased former patient when that information is sought as part of a genealogical study.

(b) The treatment personnel shall not disclose any information subject to subsection (a)(3) unless a judge has entered an order finding that the patient has made such patient's condition an issue of the patient's claim or defense. The order shall indicate the parties to whom otherwise confidential information must be disclosed.

Sec. 62. K.S.A. 1995 Supp. 75-5209 is hereby amended to read as follows: 75-5209. The secretary of corrections may arrange for the transfer of an inmate for observation and diagnosis or treatment to other appropriate state institutions with the prior consent of the administrators of the agencies. The administrator of such institution shall accept the transfer of such inmate unless such administrator shows that no facilities are available for the accommodation of such inmate and shall have access to any case study, diagnosis or report of the Topeka correctional facility which relates to an inmate transferred to such institution. While the inmate is in another institution the inmate's sentence shall continue to run. When, in the judgment of the administrator of the institution to which an inmate has been transferred, the inmate has recovered from the condition which occasioned the transfer, the administrator shall provide for the inmate's return to the secretary, unless the inmate's sentence has expired.

The costs of transfer as well as the transportation of the inmate to the appropriate state institution shall be borne by the correctional institution from which such inmate is transferred. No inmate shall receive treatment at the state security hospital after expiration of the inmate's sentence. If the inmate shall be in need of continued treatment for mental illness at the expiration of the inmate's term of confinement, an application petition to obtain such treatment for the inmate shall be filed pursuant to the care and treatment act for mentally ill persons.

Any inmate transferred to the state security hospital pursuant to this section may correspond freely, without censorship, with any person, except that any such incoming correspondence or parcels may be opened and examined for the purpose of intercepting any items which the superintendent of such institution has declared to be contraband.

Sec. 63. K.S.A. 76-12a10 is hereby amended to read as follows: 76-12a10. (a) Whenever medical information is requested relating to a patient or former patient of any institution under the secretary of social and rehabilitation services, and the disclosure of such information is authorized in accordance with K.S.A. 59-2931 section 25 and amendments thereto or in accordance with K.S.A. 1986 Supp. 65-5601 to 65-5605, inclusive, and amendments thereto, as applicable, the superintendent of the institution may authorize the release of a copy of a report of such information upon payment of any fees required under this section.

(b) The secretary of social and rehabilitation services shall specify the form or forms of release to be used for the purpose of this section and may specify public officers to which such information may be given without provision of a release or payment of fees, or both. The secretary of social and rehabilitation services shall adopt rules and regulations for the administration of this section and for establishment of fees to be charged for copies of reports of information under this section, and specifying

when no fee shall be charged. The fees fixed for copies of reports of information shall be fixed by the secretary of social and rehabilitation services in amounts approved by the director of accounts and reports under K.S.A. 45-204 and amendments thereto.

(c) The superintendent of each institution shall remit all moneys received by or for the superintendent from fees and charges under this section to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the fee fund of the remitting institution. Nothing in this act shall be deemed to authorize remittances to be made less frequently than is authorized under K.S.A. 75-4215 and amendments thereto.

Sec. 64. K.S.A. 1995 Supp. 77-201 is hereby amended to read as follows: 77-201. In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:

First. The repeal of a statute does not revive a statute previously repealed, nor does the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the statute repealed. The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of the prior provisions and not as a new enactment.

Second. Words and phrases shall be construed according to the context and the approved usage of the language, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings.

Third. Words importing the singular number only may be extended to several persons or things, and words importing the plural number only may be applied to one person or thing. Words importing the masculine gender only may be extended to females.

Fourth. Words giving a joint authority to three or more public officers or other persons shall be construed as given that authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

Fifth. "Highway" and "road" include public bridges and may be construed to be equivalent to "county way," "county road," "common road," "state road" and "territorial road."

Sixth. "Incompetent person" includes disabled person as defined in K.S.A. 59-3002 and amendments thereto.

Seventh. "Issue," as applied to the descent of estates, includes all the lawful lineal descendants of the ancestor.

Eighth. "Land," "real estate" and "real property" include lands, tenements and hereditaments, and all rights to them and interest in them, equitable as well as legal.

Ninth. "Personal property" includes money, goods, chattels, evidences of debt and things in action.

Tenth. "Property" includes personal and real property.

Eleventh. "Month" means a calendar month, unless otherwise expressed. "Year" alone, and also the abbreviation "A.D.," is equivalent to the expression "year of our Lord."

Twelfth. "Oath" includes an affirmation in all cases where an affirmation may be substituted for an oath, and in similar cases "swear" includes affirm.

Thirteenth. "Person" may be extended to bodies politic and corporate.

Fourteenth. If the seal of a court or public office or officer is required by law to be affixed to any paper, "seal" includes an impression of the seal upon the paper alone, as well as upon wax or a wafer affixed to the paper. "Seal" also includes both a rubber stamp seal used with permanent ink and the word "seal" printed on court documents produced by computer systems, so that the seal may be legibly reproduced by photographic process.

Fifteenth. "State," when applied to the different parts of the United States, includes the District of Columbia and the territories. "United States" may include that district and those territories.

Sixteenth. "Town" may mean a civil township, unless a different meaning is plainly intended.

Seventeenth. "Will" includes codicils.

Eighteenth. "Written" and "in writing" may include printing, engraving, lithography and any other mode of representing words and letters, excepting those cases where the written signature or the mark of any person is required by law.

Nineteenth. "Sheriff" may be extended to any person performing the duties of the sheriff, either generally or in special cases.

Twentieth. "Deed" is applied to an instrument conveying lands but does not imply a sealed instrument. "Bond" and "indenture" do not necessarily imply a seal but in other respects mean the same kind of instruments as above. "Undertaking" means a promise or security in any form where required by law.

Twenty-first. "Executor" includes an administrator where the subject-matter applies to an administrator.

Twenty-second. Roman numerals and Arabic figures are to be taken as a part of the English language.

Twenty-third. "Residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence.

Twenty-fourth. "Usual place of residence" and "usual place of abode," when applied to the service of any process or notice, means the place usually occupied by a person. If a person has no family, or does not have family with the person, the person's office or place of business or, if the person has no place of business, the room or place where the person usually sleeps shall be construed to be the person's place of residence or abode.

Twenty-fifth. "Householder" means a person who is 18 or more years of age and who owns or occupies a house as a place of residence and not as a boarder or lodger.

Twenty-sixth. "General election" refers to the election required to be held on the Tuesday following the first Monday in November of each even-numbered year.

Twenty-seventh. "Under legal disability" includes persons who are within the period of minority, incapacitated or imprisoned.

Twenty-eighth. When a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, relationship within the degree of second cousin, inclusive, shall disqualify the person from acting, except by consent of parties.

Twenty-ninth. "Head of a family" shall include any person who has charge of children, relatives or others living with the person.

Thirtieth. "Mentally ill person" means a mentally ill person as defined in K.S.A. 59-2002 section 2 and amendments thereto.

Thirty-first. "Incapacitated person" means disabled person as defined in K.S.A. 59-3002 and amendments thereto.

Thirty-second. "Guardian" means an individual or a nonprofit corporation certified in accordance with K.S.A. 59-3037 and amendments thereto which has been appointed by a court to act on behalf of a ward and possessed of some or all of the powers and duties set out in K.S.A. 59-3018 and amendments thereto. "Guardian" does not mean natural guardian unless specified.

Thirty-third. "Natural guardian" means both the father and mother of a minor if neither parent has been found to be a disabled person or had parental rights terminated by a court of competent jurisdiction. If either

parent of a minor dies, is found to be a disabled person or has had parental rights terminated by a court of competent jurisdiction, the other shall be the natural guardian.

Thirty-fourth. "Conservator" means an individual or corporation appointed by the court to act on behalf of a conservatee and possessed of some or all of the powers and duties set out in K.S.A. 59-3019 and amendments thereto.

Thirty-fifth. "Minor" means any person defined by K.S.A. 38-101 and amendments thereto as being within the period of minority.

Thirty-sixth. "Proposed ward" means a person for whom an application for the appointment of a guardian pursuant to K.S.A. 59-3006 and amendments thereto has been filed.

Thirty-seventh. "Proposed conservatee" means a person for whom a petition for the appointment of a conservator pursuant to K.S.A. 59-3006 and amendments thereto has been filed.

Thirty-eighth. "Ward" means a person who has a guardian.

Thirty-ninth. "Conservatee" means a person who has a conservator.

Fortieth. "Manufactured home" means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

Forty-first. "Mobile home" means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

Sec. 65. K.S.A. 22-3305, 22-3428, 22-4503, 28-170, 38-1505, 38-1614, 39-1602, 39-1610, 59-214, 59-2212, 59-2901, 59-2902, 59-2903, 59-2905, 59-2906, 59-2907, 59-2908, 59-2909, 59-2910, 59-2911, 59-2912, 59-2913, 59-2914, 59-2914a, 59-2916, 59-2916a, 59-2917, 59-2918, 59-2918a, 59-2919, 59-2919a, 59-2920, 59-2922, 59-2924, 59-2925, 59-2926, 59-2927, 59-2927a, 59-2928, 59-2929, 59-2930, 59-2931, 59-2932, 59-2933, 59-2934, 59-2936, 59-2937, 59-2938, 59-2939, 59-2940, 59-2941, 59-2943 and 59-2944. 59-3002, 59-3010, 59-3013, 59-3018a, 65-5603 and 76-12a10 and K.S.A. 1995 Supp. 12-1,109, 38-1513, 59-212, 65-5601, 75-5209 and 77-201 are hereby repealed.

Sec. 66. This act shall take effect and be in force from and after its publication in the Kansas register.

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. This cumulative index supplements the index found in the 1995 Supplement to the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-2-1	Revoked	V. 14, p. 1441
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1-2-5	Revoked	V. 14, p. 1441
1-2-8	New	V. 14, p. 1441
1-2-9	Amended	V. 14, p. 1441
1-2-11	Revoked	V. 14, p. 1441
1-2-14	New	V. 14, p. 1441

1-2-17	Amended	V. 14, p. 1441
1-2-20	New	V. 14, p. 172, 483
1-2-26	Revoked	V. 14, p. 1441
1-2-27	Revoked	V. 14, p. 1441
1-2-29	Revoked	V. 14, p. 1441
1-2-31	Amended	V. 14, p. 1441
1-2-35	Amended	V. 14, p. 1441
1-2-37	Revoked	V. 14, p. 1441
1-2-39	Revoked	V. 14, p. 1441
1-2-42	New	V. 14, p. 1441
1-2-42a	New	V. 14, p. 1441
1-2-43	Revoked	V. 14, p. 1442
1-2-44	New	V. 14, p. 1442
1-2-46	Amended	V. 14, p. 1442
1-2-47	Revoked	V. 14, p. 1442
1-2-48	Amended	V. 14, p. 1442
1-2-49	Revoked	V. 14, p. 1442
1-2-50	Amended	V. 14, p. 1442
1-2-51	Amended	V. 14, p. 1442
1-2-54	New	V. 14, p. 1442
1-2-55	Revoked	V. 14, p. 1442
1-2-67	Amended	V. 14, p. 1442
1-2-68	New	V. 14, p. 1443
1-2-70	New	V. 14, p. 1443
1-2-71	Amended	V. 14, p. 1443
1-2-72	New	V. 14, p. 1443
1-2-73	Amended	V. 14, p. 1443
1-2-75	Revoked	V. 14, p. 1443
1-2-79	Amended	V. 14, p. 1443
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1-2-85	Amended	V. 14, p. 1443
1-2-86	New	V. 14, p. 1443
1-2-88	Amended	V. 14, p. 1443
1-2-91	Revoked	V. 14, p. 1443
1-2-95	Revoked	V. 14, p. 1443
1-3-2	Amended	V. 14, p. 1443
1-4-1	Amended	V. 14, p. 1444
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1-5-4	Amended	V. 14, p. 1444
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1-5-16	Amended	V. 14, p. 1444-1447
1-15-18	Revoked	V. 14, p. 1448
1-5-19b	Amended	V. 14, p. 1448
1-5-19c	Amended	V. 14, p. 1448
1-5-20	Amended	V. 14, p. 1448
1-5-21	Amended	V. 14, p. 1448
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1-5-30	Amended	V. 14, p. 1450
1-6-1	Amended	V. 14, p. 1451

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1-6-3	Amended	V. 14, p. 1451
1-6-4	Revoked	V. 14, p. 1452
1-6-5	Revoked	V. 14, p. 1452
1-6-6	Revoked	V. 14, p. 1452
1-6-7	Amended	V. 14, p. 1452
1-6-8	Amended	V. 14, p. 1452
1-6-9		
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1-6-20	Revoked	V. 14, p. 1452
1-6-21	Amended	V. 14, p. 1452
1-6-22	Amended	V. 14, p. 1452
1-6-22a	Amended	V. 14, p. 1453
1-6-23	Amended	V. 14, p. 1453
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1-6-33	Amended	V. 14, p. 1454-1456
1-7-3	Amended	V. 14, p. 1457
1-7-4	Amended	V. 14, p. 1457
1-7-5	Revoked	V. 14, p. 1458
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1-7-11	Amended	V. 14, p. 1458
1-7-12	Amended	V. 14, p. 1459
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1-8-6	Amended	V. 14, p. 1459
1-9-1		
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1-9-6	Amended	V. 14, p. 1460-1463
1-9-7a	Amended	V. 14, p. 1464
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1-9-7c	Amended	V. 14, p. 1465
1-9-8	Amended	V. 14, p. 1465
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1-9-13	Amended	V. 14, p. 1466
1-9-15	Amended	V. 14, p. 1466
1-9-18	Amended	V. 14, p. 1466
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1-9-23	Amended	V. 14, p. 1467
1-9-25	New	V. 14, p. 173, 484
1-9-26	New	V. 14, p. 175, 487
1-10-8	Amended	V. 14, p. 1468
1-10-9	Amended	V. 14, p. 1469
1-13-1a	Amended	V. 14, p. 1469
1-14-7	Amended	V. 14, p. 1469
1-14-8	Amended	V. 14, p. 1470
1-14-10	Amended	V. 14, p. 1471
1-16-18	Amended	V. 14, p. 1376
1-16-18a	Amended	V. 15, p. 317
1-18-1a	Amended	V. 14, p. 971, 1018
1-21-1	Amended	V. 14, p. 1472
1-21-2	Amended	V. 14, p. 1472
1-21-4	Amended	V. 14, p. 1472
1-24-1	Amended	V. 14, p. 1472

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-25-1		
through		
5-25-10	Amended	V. 15, p. 410-412

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-19-4	Amended	V. 14, p. 1154
7-36-1		
through		
7-36-6	Amended	V. 14, p. 982, 1102

AGENCY 10: KANSAS BUREAU OF INVESTIGATION

Reg. No.	Action	Register
10-21-1		
through		
10-21-6	New	V. 14, p. 1630, 1631

AGENCY 11: STATE CONSERVATION COMMISSION

Reg. No.	Action	Register
11-8-1		
through		
11-8-8	New	V. 14, p. 629, 630

AGENCY 16: ATTORNEY GENERAL

Reg. No.	Action	Register
16-2-1	Amended	V. 15, p. 375
16-5-1	Amended	V. 15, p. 375

16-5-4	Amended	V. 15, p. 375
16-5-5	Amended	V. 15, p. 376
16-6-1	Amended	V. 15, p. 376

AGENCY 25: STATE GRAIN INSPECTION DEPARTMENT

Reg. No.	Action	Register
25-1-1	Revoked	V. 15, p. 138
25-3-3	Amended	V. 15, p. 138
25-4-1	Amended	V. 14, p. 676, 720

AGENCY 26: DEPARTMENT ON AGING

Reg. No.	Action	Register
26-8-1	Amended	V. 14, p. 990
26-8-4	Amended	V. 14, p. 991
26-8-8	Amended	V. 14, p. 991
26-9-1	New	V. 14, p. 884, 970

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-1-2	Amended	V. 14, p. 1740
28-1-3	Revoked	V. 14, p. 1740
28-1-4	Amended	V. 14, p. 1740
28-1-18	Amended	V. 14, p. 1740
28-19-7	Amended	V. 14, p. 1580
28-19-45	Revoked	V. 15, p. 183
28-19-46	Revoked	V. 15, p. 183
28-19-47	Revoked	V. 15, p. 183
28-19-202	Amended	V. 15, p. 257
28-19-511	Amended	V. 14, p. 1589
28-19-512	Amended	V. 14, p. 1591
28-19-518	Amended	V. 14, p. 1594
28-19-645	New	V. 15, p. 183
28-19-646	New	V. 15, p. 183
28-19-647	New	V. 15, p. 183
28-19-648	New	V. 15, p. 184
28-19-800	New	V. 15, p. 257
28-19-801	New	V. 15, p. 258
28-29-84	Amended	V. 14, p. 992
28-29-85	Amended	V. 14, p. 992
28-29-98	Amended	V. 14, p. 91
28-31-4	Amended	V. 15, p. 297
28-31-10	Amended	V. 15, p. 301
28-34-62a	Amended	V. 14, p. 1659

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-4-34	Amended	V. 14, p. 826
30-4-63	Amended	V. 14, p. 826
30-4-63w	Amended	V. 14, p. 827
30-4-64	Amended	V. 14, p. 828
30-4-64w	Amended	V. 14, p. 829
30-4-65w	New	V. 14, p. 830
30-4-85a	Amended	V. 15, p. 15
30-4-101	Amended	V. 14, p. 1327
30-4-120	Amended	V. 14, p. 831
30-4-120w	Amended	V. 14, p. 832
30-4-140w	Amended	V. 14, p. 833
30-5-58	Amended	V. 15, p. 188
30-5-59	Amended	V. 14, p. 168
30-5-64	Amended	V. 15, p. 194
30-5-71	Amended	V. 14, p. 988, 1017
30-5-80	Amended	V. 14, p. 1660
30-5-81u	Amended	V. 14, p. 1661
30-5-82	Amended	V. 14, p. 1661
30-5-86	Amended	V. 14, p. 1662
30-5-94	Amended	V. 14, p. 1662
30-5-95	Amended	V. 14, p. 1663
30-5-106	Amended	V. 14, p. 169
30-5-107	Amended	V. 14, p. 169
30-5-110	Amended	V. 14, p. 1663
30-5-116	Amended	V. 14, p. 920
30-5-153	New	V. 14, p. 1663
30-5-153a	New	V. 14, p. 1663
30-5-174	New	V. 14, p. 920
30-6-103	Amended	V. 14, p. 1663
30-6-103w	Amended	V. 14, p. 1664
30-6-106	Amended	V. 14, p. 1665
30-6-106w	Amended	V. 14, p. 1666
30-6-111	Amended	V. 14, p. 833
30-6-111w	Amended	V. 14, p. 834
30-10-1a	Amended	V. 14, p. 1668
30-10-1b	Amended	V. 14, p. 1671
30-10-2	Amended	V. 14, p. 1671
30-10-15a	Amended	V. 14, p. 1672
30-10-17	Amended	V. 14, p. 1673
30-10-18	Amended	V. 14, p. 1675

30-10-19	Amended	V. 14, p. 1677
30-10-20	Amended	V. 14, p. 169
30-10-23a	Amended	V. 14, p. 1677
30-10-23b	Amended	V. 14, p. 1678
30-10-24	Amended	V. 14, p. 1678
30-10-25	Amended	V. 14, p. 1680
30-10-27	Amended	V. 14, p. 1680
30-10-29	Amended	V. 14, p. 1681
30-23-1	Revoked	V. 14, p. 1682
30-23-3	Revoked	V. 14, p. 1682
30-23-6		
through		
30-23-15	Revoked	V. 14, p. 1682
30-23-17	Revoked	V. 14, p. 1682
30-26-5	Revoked	V. 14, p. 1682
30-26-6	Revoked	V. 14, p. 1682
30-44-4	New	V. 14, p. 921

AGENCY 37: KANSAS HIGHWAY PATROL

Reg. No.	Action	Register
37-1-1		
through		
37-1-5	Revoked	V. 14, p. 1633
37-1-5a	Revoked	V. 14, p. 1633
37-1-6		
through		
37-1-12	Revoked	V. 14, p. 1633

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-4-17	Amended	V. 15, p. 77
40-4-37	Amended	V. 15, p. 77
40-4-37d	Amended	V. 15, p. 78
40-4-41	New	V. 14, p. 583, 624
40-4-41a		
through		
40-4-41g	New	V. 14, p. 584-587 625-628
40-5-109	Amended	V. 15, p. 78

AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-9-7	Amended	V. 15, p. 345

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-11-108	Amended	V. 15, p. 115
60-11-109	Revoked	V. 15, p. 115
60-11-112	Revoked	V. 15, p. 115
60-11-114	Revoked	V. 15, p. 115
60-11-117	Revoked	V. 15, p. 115
60-12-106	Amended	V. 15, p. 115
60-12-109	Revoked	V. 15, p. 116
60-13-112	Amended	V. 15, p. 116
60-13-115	Revoked	V. 15, p. 116

AGENCY 63: BOARD OF MORTUARY ARTS

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63-1-2	Revoked	V. 14, p. 1439
63-1-3	Amended	V. 14, p. 202
63-2-2	Revoked	V. 14, p. 1439
63-2-3	Amended	V. 14, p. 202
63-2-10	Amended	V. 14, p. 1439
63-2-12	Amended	V. 14, p. 203
63-2-13	Amended	V. 14, p. 1439
63-3-9	Amended	V. 14, p. 1439
63-3-12	Amended	V. 14, p. 1439
63-3-13	Amended	V. 14, p. 1439
63-3-14	Revoked	V. 14, p. 1439
63-3-15	Amended	V. 14, p. 1439
63-3-16	Amended	V. 14, p. 1439
63-3-19	Amended	V. 14, p. 1439
63-4-1	Amended	V. 14, p. 1440
63-5-1	Amended	V. 14, p. 1440
63-5-2	Revoked	V. 14, p. 1440
63-6-1	Amended	V. 14, p. 203
63-6-2	Amended	V. 14, p. 203
63-6-3	Amended	V. 14, p. 204
63-6-4	Revoked	V. 14, p. 1440
63-6-5	Amended	V. 14, p. 1440

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-6-1	Amended	V. 15, p. 184
66-6-6	Amended	V. 15, p. 185

66-7-3	Amended	V. 15, p. 185
66-8-1	Amended	V. 15, p. 185
66-10-1	Amended	V. 15, p. 185
66-12-1	Amended	V. 15, p. 185
66-14-1		
through		
66-14-12	New	V. 15, p. 186, 187

AGENCY 67: BOARD OF HEARING AID EXAMINERS

Reg. No.	Action	Register
67-2-4	Amended	V. 14, p. 66

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-1-1a	Amended	V. 14, p. 124
68-1-1f	Amended	V. 14, p. 125
68-2-12a	Amended	V. 14, p. 125
68-2-20	Amended	V. 14, p. 125
68-7-12a	Amended	V. 14, p. 125
68-7-14	Amended	V. 14, p. 126
68-14-1	Amended	V. 14, p. 126
68-20-15a	Amended	V. 14, p. 126
68-20-18	Amended	V. 14, p. 127
68-20-19	Amended	V. 14, p. 128

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-1-1	Amended	V. 15, p. 292
69-1-2	Amended	V. 15, p. 292
69-1-3	Revoked	V. 15, p. 292
69-1-4	Amended	V. 15, p. 292
69-1-7	Revoked	V. 15, p. 293
69-1-8	Amended	V. 15, p. 293
69-2-1	Revoked	V. 15, p. 293
69-3-1	Amended	V. 15, p. 293
69-3-2	Revoked	V. 15, p. 293
69-3-3	Amended	V. 15, p. 293
69-3-4	Amended	V. 15, p. 294
69-3-5	Revoked	V. 15, p. 294
69-3-6	Amended	V. 15, p. 294
69-3-7	Amended	V. 15, p. 294
69-3-9	Amended	V. 15, p. 294
69-3-10	Revoked	V. 15, p. 294
69-3-11	Revoked	V. 15, p. 294
69-3-17	Revoked	V. 15, p. 294
69-3-19	Revoked	V. 15, p. 294
69-3-22		
through		
69-3-25	Revoked	V. 15, p. 294
69-3-26	New	V. 15, p. 294
69-3-27	New	V. 15, p. 294
69-3-28	New	V. 15, p. 294
69-4-2	Amended	V. 15, p. 294
69-4-6	Revoked	V. 15, p. 295
69-4-9	Amended	V. 15, p. 295
69-4-11	Revoked	V. 15, p. 295
69-4-12	Amended	V. 15, p. 295
69-5-2	Revoked	V. 15, p. 295
69-5-6	Amended	V. 15, p. 295
69-5-10	Revoked	V. 15, p. 295
69-5-13	Revoked	V. 15, p. 295
69-5-14	New	V. 15, p. 295
69-5-15	New	V. 15, p. 295
69-5-16	New	V. 15, p. 295
69-6-1	Revoked	V. 15, p. 295
69-6-2	Amended	V. 15, p. 295
69-6-5	Amended	V. 15, p. 295
69-6-6	Revoked	V. 15, p. 296
69-6-7	Amended	V. 15, p. 296
69-8-2	Revoked	V. 15, p. 296
69-8-3	Revoked	V. 15, p. 296
69-8-4	Revoked	V. 15, p. 296
69-8-6	Revoked	V. 15, p. 296
69-11-1	Amended	V. 15, p. 296
69-11-2	Amended	V. 15, p. 296
69-13-1	Amended	V. 15, p. 296
69-13-2	Amended	V. 15, p. 296

AGENCY 70: BOARD OF VETERINARY MEDICAL EXAMINERS

Reg. No.	Action	Register
70-3-1	Amended	V. 14, p. 90
70-3-2	Amended	V. 14, p. 90
70-3-4	Revoked	V. 14, p. 90

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-1-13	Revoked	V. 14, p. 68
71-5-1		
through		
71-5-6	New	V. 14, p. 1533, 1534

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-1-3	Amended	V. 14, p. 1736
74-4-1	Amended	V. 14, p. 1736
74-4-4	Amended	V. 14, p. 1736
74-4-5	Revoked	V. 14, p. 1736
74-4-6	Revoked	V. 14, p. 1736
74-5-2	Amended	V. 14, p. 1736
74-5-103	Amended	V. 14, p. 1737
74-5-202	Amended	V. 14, p. 1738
74-5-203	Amended	V. 14, p. 1738
74-5-406	Amended	V. 14, p. 1738
74-6-1	Amended	V. 14, p. 1739
74-6-2	Amended	V. 14, p. 1739
74-7-2	Amended	V. 14, p. 1739
74-8-2	Revoked	V. 14, p. 1739
74-8-5	Revoked	V. 14, p. 1739
74-13-1	Revoked	V. 14, p. 1739
74-13-2	Revoked	V. 14, p. 1739
74-14-1	Revoked	V. 14, p. 1739
74-14-2	Revoked	V. 14, p. 1739

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-2-1	Amended	V. 14, p. 287
81-5-12	New	V. 14, p. 287

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-3-101	Amended	V. 14, p. 129
82-3-103	Amended	V. 14, p. 132
82-3-106	Amended	V. 14, p. 133
82-3-115	Amended	V. 14, p. 134
82-3-115a	New	V. 14, p. 135
82-3-115b	New	V. 14, p. 135
82-3-116	Amended	V. 14, p. 136
82-3-120	Amended	V. 14, p. 136
82-3-300	Amended	V. 14, p. 137
82-5-13	Amended	V. 14, p. 1047
82-8-100		
through		
82-8-108	Revoked	V. 14, p. 1047
82-12-1		
through		
82-12-9	New	V. 14, p. 1048, 1049

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-10	Amended	V. 14, p. 1495
86-1-11	Amended	V. 14, p. 1660
86-1-12	Amended	V. 14, p. 1496
86-1-13	Amended	V. 14, p. 1497
86-1-15	Amended	V. 14, p. 1497
86-1-17	New	V. 14, p. 1497
86-1-18	New	V. 14, p. 1498
86-2-4	Revoked	V. 14, p. 1660
86-2-6	Revoked	V. 14, p. 1660
86-3-25	New	V. 14, p. 1498

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-30	Amended	V. 14, p. 1704
91-1-34	Amended	V. 14, p. 1705
91-1-35	Amended	V. 14, p. 1705
91-1-36	Revoked	V. 14, p. 1706
91-1-44	Amended	V. 14, p. 1706
91-1-45	Amended	V. 14, p. 1706
91-1-46	Amended	V. 14, p. 1706
91-1-48	Amended	V. 14, p. 1706
91-1-68a		
through		
91-1-68d	Amended	V. 14, p. 677-680
91-1-68e	New	V. 14, p. 681
91-1-70a	New	V. 14, p. 682
91-1-70b	New	V. 14, p. 682
91-1-103	Revoked	V. 14, p. 1707
91-1-113b	Amended	V. 14, p. 1707
91-1-114a	Amended	V. 14, p. 1707
91-1-115a	Amended	V. 14, p. 1707
91-1-117a	Amended	V. 14, p. 1708
91-1-118a	Amended	V. 14, p. 1708
91-1-123	Revoked	V. 14, p. 1708
91-1-127a	Amended	V. 14, p. 1708
91-1-128a	Revoked	V. 14, p. 1708
91-1-145	Amended	V. 14, p. 1709
91-1-146d	Amended	V. 14, p. 1709

91-12-22	Amended	V. 15, p. 226
91-12-23	Amended	V. 14, p. 91
91-12-25	Amended	V. 14, p. 91
91-12-29	Revoked	V. 14, p. 92
91-12-34	Revoked	V. 14, p. 92
91-12-35	Amended	V. 14, p. 92
91-12-41	Amended	V. 14, p. 92
91-12-42	Amended	V. 14, p. 93
91-12-51	Amended	V. 14, p. 94
91-12-54	Amended	V. 14, p. 94
91-12-55	Amended	V. 15, p. 230
91-12-56	Amended	V. 14, p. 94
91-12-60	Amended	V. 14, p. 95
91-12-61	Amended	V. 15, p. 230
91-12-74	New	V. 14, p. 95

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-38-1	Amended	V. 14, p. 676

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-1	Amended	V. 14, p. 1014
102-1-4	Amended	V. 14, p. 488
102-1-5	Amended	V. 14, p. 488
102-1-10	Amended	V. 14, p. 1015
102-1-13	Amended	V. 14, p. 1016
102-2-3	Amended	V. 14, p. 1016
102-3-2	Amended	V. 14, p. 1016
102-4-1	Amended	V. 14, p. 489
102-4-2	Amended	V. 14, p. 1016
102-4-4	Amended	V. 14, p. 490
102-4-5	Amended	V. 14, p. 490
102-4-6	Amended	V. 14, p. 491
102-4-7	Revoked	V. 14, p. 492
102-4-10	Amended	V. 14, p. 492
102-5-2	Amended	V. 14, p. 1016
102-6-1	New	V. 14, p. 796
102-6-2	New	V. 14, p. 797
102-6-4	New	V. 14, p. 797
102-6-5	New	V. 14, p. 797
102-6-8	New	V. 14, p. 798
102-6-9	New	V. 14, p. 798
102-6-10	New	V. 14, p. 798
102-6-11	New	V. 14, p. 799
102-6-12	New	V. 14, p. 799

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-8-1	Amended	V. 14, p. 1710
109-10-1	Amended	V. 14, p. 1242

AGENCY 111: KANSAS LOTTERY

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-5	Amended	V. 13, p. 1045
111-2-1	Amended	V. 14, p. 311
111-2-2	Amended	V. 12, p. 1261
111-2-2a		
through		
111-2-2e	New	V. 14, p. 1633, 1634
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	Amended	V. 14, p. 1634
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		
through		
111-2-26	Revoked	V. 13, p. 1401
111-2-27	Revoked	V. 14, p. 972
111-2-28	New	V. 12, p. 1844
111-2-29	Revoked	V. 14, p. 972
111-2-30	Amended	V. 14, p. 403
111-2-31	New	V. 14, p. 170
111-2-32	New	V. 14, p. 311
111-2-33	Amended	V. 14, p. 1741
111-2-34	Amended	V. 14, p. 722
111-2-35	New	V. 14, p. 796
111-2-36	New	V. 14, p. 908
111-2-37	New	V. 14, p. 1094
111-2-38	New	V. 14, p. 1741
111-2-39	New	V. 14, p. 1502

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111-2-40	New	V. 14, p. 1502	111-4-245			111-4-392	Amended	V. 12, p. 520
111-2-41	New	V. 14, p. 1742	111-4-248			111-4-394		
111-2-42	New	V. 14, p. 1742	111-4-249	Revoked	V. 12, p. 1371	111-4-400	Amended	V. 12, p. 521, 522
111-2-43	New	V. 15, p. 287	111-4-256	Revoked	V. 12, p. 113, 114	111-4-401		
111-2-44	New	V. 15, p. 288	111-4-257			111-4-404	Revoked	V. 12, p. 1373
111-2-45	New	V. 15, p. 288	111-4-286	Revoked	V. 11, p. 413, 414	111-4-405		
111-3-1	Amended	V. 14, p. 908	111-4-287			111-4-413	New	V. 11, p. 756, 757
111-3-6	Amended	V. 12, p. 677	111-4-300	New	V. 10, p. 883-886	111-4-405	Amended	V. 14, p. 723
111-3-9	Revoked	V. 11, p. 1793	111-4-287			111-4-407	Amended	V. 13, p. 877
111-3-10			111-4-287			111-4-408	Amended	V. 14, p. 723
through			111-4-290	Revoked	V. 12, p. 1371	111-4-409	Amended	V. 14, p. 723
111-3-31	New	V. 7, p. 201-206	111-4-291			111-4-411	Amended	V. 14, p. 1094
111-3-11	Amended	V. 13, p. 35	111-4-300	Revoked	V. 12, p. 114	111-4-412	Amended	V. 11, p. 1475
111-3-12	Amended	V. 13, p. 1826	111-4-301			111-4-413	Amended	V. 11, p. 1475
111-3-13	Amended	V. 11, p. 1148	111-4-301			111-4-414		
111-3-14	Amended	V. 13, p. 1826	111-4-307	Revoked	V. 13, p. 1402	111-4-428	Revoked	V. 14, p. 8
111-3-16	Amended	V. 9, p. 1566	111-4-307			111-4-414	Amended	V. 11, p. 1150
111-3-19			111-4-301			111-4-429		
through			111-4-303	Amended	V. 12, p. 1115	through		
111-3-22	Amended	V. 9, p. 30	111-4-304	Amended	V. 12, p. 1115	111-4-432	Revoked	V. 12, p. 1373
111-3-19	Revoked	V. 13, p. 1827	111-4-306	Amended	V. 12, p. 1115	111-4-433		
111-3-20	Amended	V. 11, p. 1148	111-4-308			111-4-436	Revoked	V. 12, p. 1374
111-3-21	Amended	V. 11, p. 1148	111-4-320	New	V. 10, p. 1214, 1215	111-4-437		
111-3-22	Amended	V. 11, p. 1148	111-4-308	Amended	V. 12, p. 1261	111-4-437		
111-3-23	Revoked	V. 10, p. 883	111-4-311	Amended	V. 12, p. 1262	111-4-444	New	V. 11, p. 1475-1477
111-3-25	Amended	V. 13, p. 1827	111-4-312	Amended	V. 12, p. 1262	111-4-437		
111-3-26	Amended	V. 11, p. 1149	111-4-313	Amended	V. 12, p. 1262	111-4-440	Revoked	V. 12, p. 1374
111-3-27	Amended	V. 11, p. 1149	111-4-318			111-4-441		
111-3-29	Revoked	V. 11, p. 1149	111-4-321	Revoked	V. 12, p. 114	111-4-441		
111-3-31	Amended	V. 8, p. 209	111-4-322			111-4-443	Revoked	V. 14, p. 8
111-3-32	Amended	V. 10, p. 883	111-4-322			111-4-445		
111-3-33	New	V. 7, p. 1434	111-4-327	Revoked	V. 12, p. 1371	111-4-453	New	V. 11, p. 1794-1796
111-3-34	New	V. 13, p. 149	111-4-328			111-4-445		
111-3-35	Amended	V. 14, p. 909	111-4-328			111-4-448	Revoked	V. 12, p. 1374
111-3-36	New	V. 13, p. 877	111-4-335	Revoked	V. 12, p. 114	111-4-449		
111-3-37	New	V. 13, p. 877	111-4-336			111-4-453	Revoked	V. 14, p. 8
111-4-1			111-4-345	New	V. 10, p. 1526-1528	111-4-454		
through			111-4-336			111-4-454		
111-4-5	Revoked	V. 12, p. 113	111-4-340	Amended	V. 12, p. 1371, 1372	111-4-465	Revoked	V. 12, p. 1664, 1665
111-4-5a	Revoked	V. 12, p. 113	111-4-341	Revoked	V. 11, p. 1473	111-4-466		
111-4-6			111-4-341a	Revoked	V. 12, p. 1372	111-4-473	New	V. 12, p. 316, 317
through			111-4-341b	Amended	V. 12, p. 1372	111-4-466		
111-4-15	Revoked	V. 12, p. 113	111-4-341c	New	V. 12, p. 1664	111-4-473	New	V. 12, p. 316, 317
111-4-66			111-4-344	Amended	V. 12, p. 1373	111-4-466		
through			111-4-346			111-4-469	Revoked	V. 12, p. 1665
111-4-77	New	V. 7, p. 207-209	111-4-346			111-4-470	Amended	V. 12, p. 522
111-4-96			111-4-346			111-4-474		
through			111-4-361	New	V. 10, p. 1586-1589	111-4-474		
111-4-114	New	V. 7, p. 1606-1610	111-4-361			111-4-488	New	V. 12, p. 522-524
111-4-100	Amended	V. 14, p. 972	111-4-356			111-4-478		
111-4-101	Amended	V. 14, p. 972	111-4-361	Revoked	V. 14, p. 7	111-4-492	Revoked	V. 14, p. 974, 975
111-4-102	Amended	V. 12, p. 1114	111-4-362			111-4-493		
111-4-103	Amended	V. 10, p. 1211	111-4-362	Revoked	V. 12, p. 114, 115	111-4-496	New	V. 12, p. 525
111-4-104	Amended	V. 14, p. 972	111-4-362	Amended	V. 11, p. 13	111-4-497		
111-4-105	Amended	V. 14, p. 972	111-4-366			111-4-497		
111-4-106	Amended	V. 14, p. 973	111-4-366			111-4-512	Revoked	V. 14, p. 975
111-4-106a	Amended	V. 14, p. 974	111-4-379	New	V. 11, p. 136-139	111-4-513		
111-4-107	Amended	V. 11, p. 978	111-4-366			111-4-521	New	V. 12, p. 1374, 1375
111-4-108	Amended	V. 14, p. 974	111-4-369	Revoked	V. 12, p. 1373	111-4-519	Amended	V. 14, p. 1095
111-4-110	Amended	V. 11, p. 978	111-4-370			111-4-522		
111-4-111	Amended	V. 9, p. 1366	111-4-379	Revoked	V. 14, p. 7, 8	111-4-522		
111-4-112	Amended	V. 14, p. 974	111-4-380			111-4-571	Revoked	V. 14, p. 975-977
111-4-113	Amended	V. 9, p. 1366	111-4-380			111-4-572		
111-4-114	Amended	V. 9, p. 1366	111-4-383	Revoked	V. 12, p. 1664	111-4-572		
111-4-153			111-4-384			111-4-585	New	V. 13, p. 878-880
through			111-4-387	Revoked	V. 12, p. 1373	111-4-572	Amended	V. 14, p. 723
111-4-160	Revoked	V. 9, p. 1676, 1677	111-4-388			111-4-574	Amended	V. 14, p. 724
111-4-177			111-4-388	Revoked	V. 12, p. 1373	111-4-575	Amended	V. 14, p. 724
through			111-4-400	New	V. 11, p. 478-481	111-4-576	Amended	V. 14, p. 724
111-4-212	Revoked	V. 9, p. 1677, 1678	111-4-388			111-4-577	Amended	V. 14, p. 724
111-4-213			111-4-400			111-4-579	Amended	V. 14, p. 724
through			111-4-388			111-4-581	Amended	V. 14, p. 725
111-4-220	Revoked	V. 10, p. 1213	111-4-391	Revoked	V. 12, p. 1373	111-4-582	Amended	V. 14, p. 725
111-4-217	Amended	V. 9, p. 986				111-4-583	Amended	V. 14, p. 725
111-4-221								
through								
111-4-224	Revoked	V. 10, p. 1585						
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111-4-228	Revoked	V. 10, p. 1585						
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111-4-236	Revoked	V. 10, p. 1585, 1586						
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111-4-240	Revoked	V. 11, p. 413						
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111-4-244	Revoked	V. 12, p. 1371						

111-4-584 Amended V. 14, p. 275
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 111-4-606 Revoked V. 14, p. 977, 978
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 111-4-619 New V. 13, p. 1436-1438
 111-4-607 Amended V. 14, p. 1407
 111-4-609 Amended V. 14, p. 1407
 111-4-610 Amended V. 14, p. 1407
 111-4-611 Amended V. 14, p. 1407
 111-4-613 Amended V. 14, p. 1408
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 111-4-623 Revoked V. 14, p. 978
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 111-4-652 New V. 13, p. 1828-1835
 111-4-640 Amended V. 13, p. 1922
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 111-4-664 New V. 13, p. 1923-1925
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 111-4-677 New V. 14, p. 312, 313
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 111-4-694 New V. 14, p. 404-406
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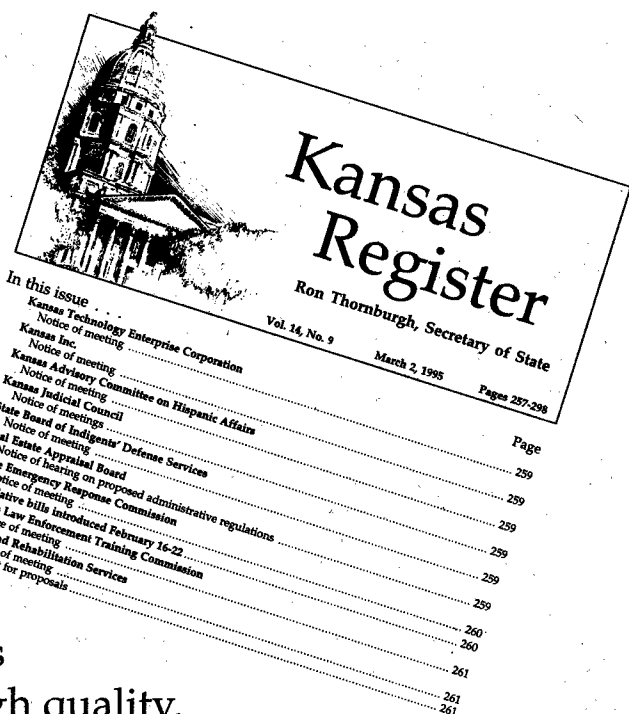
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122-3-10	New	1499-1501
122-4-1	New	V. 14, p. 1128, 1501
122-5-1	New	V. 14, p. 1128, 1501

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