

Kansas Register

Ron Thornburgh, Secretary of State

Vol. 17, No. 10 March 5, 1998 Pages 281-310

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State of Kansas

Department of Education

Notice of Available Federal Funding
for Adult Basic Education

Pursuant to assurances as set out in the amended Kansas State Plan for Adult Basic Education, notification of available federal funding for three programs is announced. These funds are authorized by Section 322 and 353 of the Adult Education Act (P.L. 100-297).

Section 322 of the Adult Education Act provides federal financial assistance to states to assist and expand existing programs and to develop new programs for adults whose lack of basic skills:

- (a) renders them unemployable;
- (b) keeps them, whether employed or unemployed, from functioning independently in society; and
- (c) severely reduces their ability to have a positive effect on the literacy of their children.

The Basic Program Grant provides eligible entities direct and equitable access to federal funds provided under Section 322. The eligible entities are local education agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions which serve educationally disadvantaged adults. Applications will be accepted until May 11 for grants under this section.

Two grant programs are available under Section 353. Staff Development Grant applications are a necessary

companion to the applications for a Section 322 Basic Grant Program. No Section 322 Basic Grant Program will be approved without an approved Section 353 Staff Development Grant application. Staff Development Grants must address the following priorities established by the Adult Education Act:

- (a) training for full-time professional adult educators;
- (b) training for minority educators;
- (c) training for educators of adults with limited English proficiency; and
- (d) training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have a reading ability below the fifth grade level.

Applications will be accepted until May 11 for grants under this program.

In addition, mini-grants of up to \$500 are available under Section 353 for research and special demonstration projects. Proposals for these projects should address the federal and state staff developmental priorities. Applications will be accepted until December 30 for grants under this program.

For further information and applications, contact Janet Stotts, Adult Education Consultant, Kansas State Department of Education, 120 S.E. 10th Ave., Topeka, 66612-1182, (785) 296-3192.

Andy Tompkins
Commissioner of Education

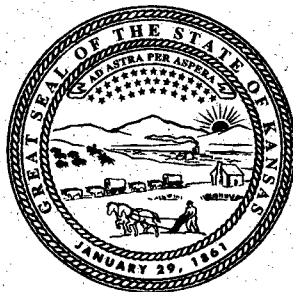
Doc. No. 022095

The Kansas Register (ISSN No. 0662-190) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$70 (Kansas residents must include \$4.31 state and local sales tax). Single copies may be purchased, if available, for \$2 each. Periodicals postage paid at Topeka, KS.

Postmaster: Send change of address form to Kansas Register, Secretary of State, State Capitol, 300 S.W. 10th Ave., Topeka, KS 66612-1594.

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PUBLISHED BY
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**State of Kansas
State Employees Health Care Commission**

Notice of Pre-Bid Conference

The State Employees Health Care Commission issued a request for proposals (#32921) March 2 for indemnity medical and HMO components of its health plan. The deadline for receipt of proposals is 2 p.m. Friday, April 10.

A pre-bid conference will be conducted at 9 a.m. Monday, March 16, in Room 106 of the Landon State Office Building, 900 S.W. Jackson, Topeka. All potential bidders are invited to attend.

This conference will offer potential bidders the opportunity to discuss any questions regarding the RFP with representatives of the state system.

Terry D. Bernatis
Health Benefits Administrator

Doc. No. 022096

**State of Kansas
Department of Administration
Division of Architectural Services**

**Notice of Commencement of
Negotiations for Engineering Services**

Notice is hereby given of the commencement of negotiations for structural/civil engineering services for the Kansas Department of Agriculture. The selected firm will provide on-call engineering services for the department in its enforcement of the fertilizer containment laws and supervision of approximately 750 facilities in Kansas. Services will include reviewing the drawings and plans proposed by the facilities and providing recommendations to the Kansas Department of Agriculture and facility owners after reviewing the plans; some on-site visits of containment facilities; conducting training of KDA inspectors; and providing 24-hour emergency assistance in the case of a fertilizer spill. A contract will be offered for one year with the option of renewing each year, for a total of three years.

For information regarding the scope of services, contact Mary Jane Stattelman, (785) 296-3558.

If interested, an original and six copies (seven total) of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines are required, contact Gary Grimes, Division of Architectural Services, 625 Polk, Topeka, 66603, (785) 233-9367. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. March 20.

Thaine Hoffman, AIA
Director, Division of
Architectural Services

Doc. No. 022100

**State of Kansas
Kansas Judicial Council**

Notice of Meetings

The Kansas Judicial Council and its advisory committees will meet according to the following schedule:

Date	Committee	Time	Location
March 12	Chapter 61	9:30 a.m.	Shawnee County Courthouse, Room 410
March 20	Judicial Council	9:00 a.m.	Kansas Judicial Center, Room 259
March 27	Family Law	9:30 a.m.	Kansas Judicial Center, Room 259
April 9	Chapter 61	9:30 a.m.	Kansas Judicial Center, Room 259
April 24	Family Law	9:30 a.m.	Kansas Judicial Center, Room 259

Hon. Tyler C. Lockett
Chair

Doc. No. 022099

**State of Kansas
Department of Revenue
Division of Property Valuation**

Notice of Hearing

The Director of Property Valuation will conduct a public hearing at 1 p.m. Monday, April 6, in the director's conference room, fourth floor, Docking State Office Building, 915 S.W. Harrison, Topeka, on two proposed appraisal directives.

K.S.A. 79-505 requires the Director of Property Valuation to adopt rules and regulations or appraisal directives prescribing appropriate standards for the performance of appraisals in connection with ad valorem taxation in this state.

Proposed Directive #98-031 addresses the question of how to value and classify real property, which formerly was vacant lot, but has added value on January 1 due to construction in progress. It directs county appraisers to value such property at its full fair market value as of January 1, and to classify it based upon its intended use.

Proposed Directive #98-032 addresses the question of how to value, classify and depreciate commercial and industrial machinery and equipment, which is under construction on January 1. It directs county appraisers to value such property at its retail cost when new, as prescribed by Art. 11, § 1 of the Kansas Constitution, and to begin the prescribed depreciation the first year the property is listed for taxation without regard to the stage of completion.

Copies of the proposed directives may be obtained from the Division of Property Valuation, Docking State Office Building, 4th Floor, 915 S.W. Harrison, Topeka, 66612-1585, (785) 296-2365, fax (785) 296-2320.

Mark S. Beck
Director of Property Valuation

Doc. No. 022108

State of Kansas

Secretary of State

Usury Rate for March

Pursuant to the provisions of K.S.A. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of March 1, 1998 through March 31, 1998, is 8.64 percent.

Ron Thornburgh
Secretary of State

Doc. No. 022097

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were recently introduced by the 1998 Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-4096.

Bills/Resolutions introduced February 19-25:

House Bills

HB 2981, An act concerning state officers and employees; relating to overtime; amending K.S.A. 75-5515 and 75-5537 and repealing the existing sections, by Committee on Federal and State Affairs.

HB 2982, An act concerning workers compensation; relating to death benefits provided thereunder; amending K.S.A. 1997 Supp. 44-510b and repealing the existing section, by Committee on Taxation.

HB 2983, An act concerning the citizens' utility ratepayer board; relating to negotiation of contracts for professional services; concerning the composition of the negotiating committee, by Committee on Appropriations.

HB 2984, An act concerning domestic case management; amending K.S.A. 1997 Supp. 23-1001, 23-1002 and 23-1003 and repealing the existing sections, by Committee on Appropriations.

HB 2985, An act concerning civil procedure; relating to reconciliation of a marriage, by Committee on Appropriations.

HB 2986, An act amending the Kansas parimutuel racing act; relating to certain background checks; amending K.S.A. 1997 Supp. 74-8805, 74-8806 and 74-8814 and repealing the existing sections, by Committee on Appropriations.

HB 2987, An act concerning county roads; relating to the removal of poles, piers, pipelines and fixtures from rights-of-way, by Committee on Federal and State Affairs.

HB 2988, An act concerning the state health care benefits program; covered services; amending K.S.A. 75-6501 and repealing the existing section, by Committee on Federal and State Affairs.

HB 2989, An act concerning adult care homes; amending K.S.A. 1997 Supp. 39-923 and repealing the existing section, by Committee on Appropriations.

HB 2990, An act concerning the department of social and rehabilitation services; providing for a Kansas medicaid drug program; prescribing guidelines; rules and regulations, by Committee on Appropriations.

HB 2991, An act concerning elections; enacting the Kansas clean money campaign reform act; amending K.S.A. 1997 Supp. 25-4148 and repealing the existing section, by Committee on Appropriations.

HB 2992, An act authorizing the state board of regents to sell and convey certain real estate located in Douglas county, Kansas, by Committee on Appropriations.

HB 2993, An act concerning the state corporation commission; repealing certain statutes relating to regulation of railroads and motor carriers; amending K.S.A. 12-1633, 12-1634, 14-434 and 15-438 and

K.S.A. 1997 Supp. 66-1a01 and repealing the existing section; also repealing K.S.A. 66-147, 66-164, 66-165, 66-169, 66-170, 66-171, 66-172, 66-1136, 66-1137, 66-217, 66-218, 66-219, 66-220, 66-221, 66-222, 66-223, 66-242, 66-243, 66-250, 66-251, 66-252, 66-253, 66-254, 66-255, 66-256, 66-257, 66-258, 66-259, 66-260, 66-261, 66-262, 66-263, 66-264, 66-265, 66-266, 66-267, 66-268, 66-269, 66-270, 66-271, 66-272, 66-275, 66-279, 66-280, 66-281, 66-282, 66-283, 66-284, 66-2114, 66-2115, 66-2116, 66-2117, 66-2118, 66-312, 66-313, 66-314, 66-315, 66-317, 66-318, 66-321, 66-322, 66-323, 66-324, 66-325, 66-326, 66-401, 66-402, 66-403, 66-404, 66-405, 66-406, 66-407, 66-408, 66-409, 66-501a, 66-501b, 66-502, 66-503, 66-504, 66-505, 66-506, 66-507, 66-508, 66-509, 66-510, 66-511, 66-512, 66-513, 66-514, 66-515, 66-516, 66-517, 66-518, 66-519, 66-520, 66-601, 66-602, 66-701, 66-702, 66-703, 66-704, 66-705, 66-706, 66-707, 66-708, 66-709, 66-710, 66-711 and 66-712, by Committee on Appropriations.

HB 2994, An act relating to the taxation of cigarettes; increasing the rate thereof; providing for disposition of revenues; establishing the children's health care programs fund; amending K.S.A. 79-3310 and 79-3311 and repealing the existing sections, by Committee on Appropriations.

HB 2995, An act relating to property taxation; concerning the classification of detention centers; amending K.S.A. 79-1439 and repealing the existing section, by Committee on Taxation.

House Concurrent Resolutions

HCR 5042, A concurrent resolution establishing a task force on providers of mental health services to study the providing of treatment for persons with mental disorders.

HCR 5043, A concurrent resolution establishing a task force concerning the status of self-employed subcontractors under the workers compensation act; designating its membership, authority and responsibilities; and requiring a report to the 1999 Kansas Legislature concerning the task force's findings and recommendations.

HCR 5044, A concurrent resolution urging the United States Congress to enact legislation authorizing the federal highway program by May 1, 1998.

HCR 5045, A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

HCR 5046, A proposition to amend section 1 of article 11 of the constitution of the state of Kansas, relating to the taxation of property.

Senate Bills

SB 676, An act relating to cities; concerning repayment of certain special obligation bonds thereof; amending K.S.A. 1997 Supp. 12-1774, as amended by section 3 of 1998 House Bill No. 2631, and repealing the existing section, by Committee on Federal and State Affairs.

SB 677, An act concerning public improvement districts; relating to certain expenditures from such districts' funds, by Committee on Ways and Means.

SB 678, An act concerning the telecommunications act; relating to competition in rural areas; amending K.S.A. 1997 Supp. 66-2004 and repealing the existing section, by Committee on Ways and Means.

SB 679, An act relating to county roads; concerning certain construction and repair thereon; amending K.S.A. 68-1103 and repealing the existing section, by Committee on Federal and State Affairs.

SB 680, An act concerning alcoholic beverages; relating to licensure and qualifications therefor; amending K.S.A. 41-2623 and 41-2703 and repealing the existing sections, by Committee on Federal and State Affairs.

Senate Resolutions

SR 1817, A resolution congratulating and commending Emil Lutz, Jr.

SR 1818, A resolution congratulating and commending Amanda Nelson.

SR 1819, A resolution congratulating and commending Tyler Cott.

SR 1820, A resolution congratulating and commending Dr. Kay K. Schallenkamp.

Doc. No. 022094

State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Office of Construction and Maintenance, KDOT, Topeka, or at the Ramada Inn Downtown, Topeka, until 2 p.m. March 18 and then publicly opened:

District One—Northeast

Douglas—33-23 K-6923-01—K-33, from the Franklin-Douglas county line north to the junction of U.S. 56, 2 miles (3.3 kilometers), sealing. (State Funds)

Jackson—75-43 K-7101-01—U.S. 75, 0.12 mile (0.2 kilometer northbound) and 0.24 mile (0.4 kilometer southbound) north of the south junction of K-214, pavement patching. (State Funds)

Johnson—35-46 K-7143-01—I-35, from the northbound lanes at Bull Creek north 0.07 mile (0.12 kilometer), pavement reconstruction. (State Funds)

Osage—56-70 K-6905-01—U.S. 56, from the Lyon-Osage county line east to the south junction of K-31, 6.2 miles (10 kilometers), crack repair. (State Funds)

Shawnee—70-89 K-6603-01—10th Street bridge over I-70, bridge overlay. (State Funds)

Shawnee—24-89 M-1880-01—U.S. 24/Rochester Road and U.S. 24/Kansas Avenue in Topeka, concrete pavement. (State Funds)

Shawnee—75-89 K-6605-01—U.S. 75, Bridge 154 southbound over the Kansas River, bridge repair. (State Funds)

Wyandotte—435-105 K-6650-01—I-435, Bridge 213 (northbound) and 214 (southbound) over I-70, bridge painting. (State Funds)

Wyandotte—670-105 K-6939-01—I-670, Bridge 243 and Bridge 244 in Kansas City, bridge repair. (State Funds)

Wyandotte—70-105 K-6649-01—Bridge 027, Central Avenue (Old K-32) over I-70, bridge painting. (State Funds)

District Two—Northcentral

Chase-Morris-Butler—177-106 K-6441-01—Various locations in Butler, Chase and Morris counties, scenic byway information centers. (Federal Funds)

Cloud—81-15 K-4956-02—U.S. 81, from the four-lane at the south edge of Concordia north 1.3 miles (2.1 kilometers), grading and surfacing. (Federal Funds)

Cloud—81-15 K-4956-03—U.S. 81, from the viaduct in Concordia north to County Route 145, 2.3 miles (3.7 kilometers), grading, bridge and surfacing. (Federal Funds)

Dickinson—70-21 K-7118-01—I-70, 0.9 mile (1.5 kilometers) west of K-15 east to the Dickinson-Geary county line, 15.2 miles (24.5 kilometers), pavement marking. (State Funds)

Geary—40b-31 K-5877-01—Sixth Street (K-57) and Washington (U.S. 40b) in Junction City, 0.06 mile (0.1 kilometer), intersection improvement. (State Funds)

Geary—70-31 K-7119-01—I-70, from the Dickinson-Geary county line east to the east city limits of Grandview

Plaza, 11.3 miles (18.2 kilometers), pavement marking. (State Funds)

Lincoln—284-53 K-5375-01—K-284, Prosser Creek 035 and Rattlesnake Creek drainage 036, bridge replacement. (Federal Funds)

Mitchell—24-62 K-6616-01—U.S. 24 bridges over Oak Creek, Brown Creek and Dog Creek, bridge overlay. (State Funds)

Morris—4-64 K-6646-01—K-4, Culverts 26.1 miles (42.1 kilometers) and 30.1 miles (48.6 kilometers) northeast of the Dickinson-Morris county line, culvert replacement. (State Funds)

Republic—148-79 K-6915-01—K-148, from the junction of U.S. 81, east to Republic-Washington county line, 17 miles (26.9 kilometers), crack repair. (State Funds)

Saline—85 C-3514-01—Sundgren Road, 1 mile (1.6 kilometers) north of Bridgeport at Dry Creek, 0.12 mile (0.2 kilometer), grading and bridge. (State Funds)

Washington—22-101—K-22, K-6613-01—Bridge 027, Mulberry Creek, bridge overlay. (State Funds)

District Three—Northwest

Russell—70-84 K-6020-01—Various locations on I-70 in Russell County, guard fence. (State Funds)

District Four—Southeast

Anderson—169-2 K-6928-01—U.S. 169, from the north city limits of Colony north to the south junction of U.S. 59, 11 miles (17.7 kilometers), crack repair. (State Funds)

Anderson—59-2 K-6926-01—U.S. 59, from the south junction of U.S. 169 north to the north junction of U.S. 169, 4 miles (6.5 kilometers), crack repair. (State Funds)

Crawford—69a-19 K-5884-01—U.S. 69a, from the south city limits of Arma north to Washington Street, 0.3 mile (0.5 kilometer), pavement reconstruction. (State Funds)

Crawford—19 K-1426-07—Crawford State Park, road and bridge improvements. (State Funds)

Franklin—33-30 K-6922-01—K-33, from the junction of K-68 north to the Franklin-Douglas county line, 8.4 miles (13.5 kilometers), sealing. (State Funds)

Franklin—59-30 K-6927-01—U.S. 59, from the north city limits of Ottawa north to the Franklin-Douglas county line, 7.3 miles (11.7 kilometers), crack repair. (State Funds)

Greenwood—54-37 K-6925-01—U.S. 54, from the Butler-Greenwood county line east to E K-99 (excluding Eureka), 19.6 miles (31.6 kilometers), crack repair. (State Funds)

Linn—52-54 K-6924-01—K-52, from the junction of K-31 east, north and northeast to the south junction of K-7, 4.4 miles (7.1 kilometers), sealing. (State Funds)

Miami—169-61 K-6929-01—U.S. 169 from the south junction of K-7 north to the junction of K-68, 13.6 miles (22 kilometers), crack repair. (State Funds)

Miami—279-61 K-6930-01—K-279, from the junction of U.S. 169 west 0.5 mile (0.787 kilometer), crack repair. (State Funds)

District Five—Southcentral

Cowley—77-18 K-6021-01—Various locations on U.S. 77 in Cowley County, guard fence. (State Funds)

(continued)

Cowley—18 U-1553-01—Main Street at 3rd Avenue in Winfield, 0.03 mile (0.06 kilometer), grading, bridge and surfacing. (Federal Funds)

Edwards—183-24 K-6931-01—U.S. 183, from the Kiowa-Edwards county line north and west to the junction of U.S. 56, 17 miles (27.3 kilometers), crack repair. (State Funds)

Pratt—281-76 K-5390-01—U.S. 281, from the south city limits of Iuka north to the Pratt-Stafford county line, 6.9 miles (11.1 kilometers), grading and surfacing. (Federal Funds)

Reno—61-78 K-6022-01—Various locations on K-61 in Reno County, guard fence. (State Funds)

Reno—61-78 K-6536-01—K-61, from the north city limits of Hutchinson north to the Reno-McPherson county line, 6.3 miles (10.1 kilometers), overlay. (State Funds)

Reno—50-78 K-6537-01—U.S. 50, from the Stafford-Reno county line east to the K-61 Junction, 24.4 miles (39.4 kilometers), overlay. (State Funds)

District Six—Southwest

Morton—27-65 K-5382-01—K-27, from the south junction of K-51 north and east to the north junction of K-51, 14.4 miles (23.2 kilometers), grading, bridge and surfacing. (Federal Funds)

Seward—U.S. 54-88 M-1884-01—U.S. 54, safety rest area southwest of Kismet, rest area improvement. (State Funds)

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

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

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

E. Dean Carlson
Secretary of Transportation

Doc. No. 022071

State of Kansas

Department of Transportation

Request for Comments

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 98-00 by adding the following project:

Project X-2013-01, flashing light signals with gates, KSW railroad crossing and Hendricks Street in Hutchinson, Reno County

The STIP amendment requires a 30-day public comment period. To receive more information on any of these projects or to make comments on the STIP amendment, contact the Kansas Department of Transportation, Office of Engineering Support, 7th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568, (785) 296-7916, fax (785) 296-0723.

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Office of Public Information, (785) 296-3585 (Voice/TTY).

The comment period regarding the STIP amendment will conclude April 6.

E. Dean Carlson
Secretary of Transportation

Doc. No. 022101

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-98-30/38

Name and Address of Applicant	Legal Description	Receiving Water
Berk, Inc.	NE/4 of Section 29,	Republican River
Brad Berk	T6S, R2W, Cloud	
Route 3, Box 40	County	
Concordia, KS 66901		

Kansas Permit No. A-LRCD-H003 Federal Permit No. KS-0094323
This is a new facility for 3,600 head (1,440 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. Dewatering equipment shall be obtained within three months after issuance of this permit through purchase, rental or custom application agreement. It shall be capable of pumping at least 160 gallons per minute and dispersing the wastewater over 99 acres of land suitable for waste application. Written verification of the acquisition of the equipment shall be submitted to the department.

Name and Address of Applicant	Legal Description	Receiving Water
Larry Billings Billings Hogs, Inc. 16095 N. Big Lowe Road Holcomb, KS 67851	SE/4 of Section 31, T21S, R33W, Finney County	Upper Arkansas River Basin

Kansas Permit No. A-UAFI-S002

This is an existing facility for 800 head (320 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: Existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Robert D. Daniels, Jr. Route 1, Box 61 Elk City, KS 67344	SW/4 of Section 27, T31S, R14E, Montgomery County	Verdigris River

Kansas Permit No. A-VEMG-S039

This is a permit renewal for an existing facility with capacity for 920 swine over 55 pounds and 560 swine under 55 pounds, to equal 424 animal units.

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: Existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Gary D. Duerksen D & S Hog Farm Route 1, Box 46 Lehigh, KS 67073	SE/4 of Section 16, T19S, R1E, Marion County	Neosho River

Kansas Permit No. A-NEMN-S010

This is an expansion of an existing facility for 1,025 head (410 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.

Name and Address of Applicant	Legal Description	Receiving Water
Joe Hall, d/b/a Hall Farm, Inc. 2732 N.W. 60th Newton, KS 67114	SE/4 of Section 24, T22S, R1W, Harvey County	Little Arkansas River Basin

Kansas Permit No. A-LAHV-H002 Federal Permit No. KS-0094331

This is a new facility for 3,000 head (1,200 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. A plan shall be submitted to the department within three months after issuance of this permit. The approved plan will become part of this permit. A minimum of 29 acres shall be available for application of waste.

Name and Address of Applicant	Legal Description	Receiving Water
Hamilton County Dairy LLC HC-01, P.O. Box 13 Syracuse, KS 67878	E/2 of Section 31, T25S, R42W, Hamilton County	Cimarron River Basin

Kansas Permit No. A-CIHM-D002 Federal Permit No. KS-0094366

This is a new facility for 5,098 head (7,137 animal units) of dairy 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: Existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Ostmeyer Hog Farm Route 1, Box 67 Grinnell, KS 67738	SE/4 of Sec. 6, NE/4 of Sec. 7, T11S, R29W, Gove County	North fork Big Creek

Kansas Permit No. A-SHGO-S005

This is an existing facility for 1,100 head (440 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.

Name and Address of Applicant	Legal Description	Receiving Water
R & L W Farms, Inc. Randall L. Warner RFD 2, Box 151 Lebanon, KS 66952	NW/4 of Section 28, T2S, R12W, Smith County	Solomon River

Kansas Permit No. A-SOSM-S019

This is an expansion facility for 980 head (392 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

(continued)

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
Vinton and Karen Visser 11363 Kansas Spur Riley, KS 66531	SW $\frac{1}{4}$ of Section 4, T9S, R6E, Riley County	Big Blue

Kansas Permit No. A-BBRL-S013

This is a new facility for 640 head of swine and 1,200 farrowing litter (376 animal units).

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 .18 acre inch per acre per year. Dewatering equipment shall be obtained within three months after issuance of this permit through purchase, rental or custom application agreement. It shall be capable of pumping at least 15,385 gallons per day and dispersing the wastewater over 92 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-98-004/006

Name and Address of Applicant	Legal Location	Type of Discharge
City of South Haven City Hall P.O. Box 130 South Haven, KS 67140	SE $\frac{1}{4}$, S34, T34S, R1W, Sumner County	Nonoverflowing

Kansas Permit No. M-AR81-NO01

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment system. The facility consists of a two-cell wastewater stabilization lagoon treating domestic wastewater. The proposed permit contains 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
Hawks Landing Trailer Court % Walter Blackburn 2204 15th Road Clay Center, KS 67432	SW $\frac{1}{4}$, S4, T8S, R3E, Clay County	Nonoverflowing

Kansas Permit No. C-LR05-NO02

Facility Description: The proposed action is to re-issue an existing permit for operation of an existing wastewater treatment system. The facility consists of a two-cell wastewater stabilization lagoon treating domestic wastewater. The proposed permit contains 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
Kansas Carriage Co., Inc. % Rob Phillips 103 W. 7th Lawrence, KS 66044	NW $\frac{1}{4}$, S18, T12S, R20E, Douglas County	Nonoverflowing

Kansas Permit No. C-KS31-NO05

Facility Name: Victoria Veranda Farm Bed and Breakfast

Facility Description: The proposed action is to issue a new permit for operation of a new wastewater treatment system. The facility consists of a two-cell wastewater stabilization lagoon treating domestic wastewater.

Public Notice No. KS-EG-98-004/006

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 use of the wells described below within the State of Kansas.

Name and Address of Applicant	Well Location
North American Salt Co. 1800 Carey Blvd. Hutchinson, KS 67501	
Well Identification #98 KS Permit No. KS-03-155-139	NE $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, S17, T23S, R5W, Reno County, 1274' fsl and 1451' fel from SE corner of Section
Well Identification #99 KS Permit No. KS-03-155-140	NW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$, S17, T23S, R5W, Reno County, 1274' fsl and 1129' fel from SE corner of Section
Well Identification #109 KS Permit No. KS-03-155-141	SW $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$, S17, T23S, R5W, Reno County, 468' fsl and 1241' fel from SE corner of Section

Description: The facility is a salt production plant. The fluids to be injected are fresh water and weak brine.

Written comments on the draft permits must be submitted to the attention of Dorothy Geisler 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 April 4 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-98-30/38, KS-ND-98-004/006, KS-EG-98-004/006) 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 5 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.

Gary R. Mitchell
Secretary of Health
and Environment

Doc. No. 022105

State of Kansas

Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1997 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 3-2-98 through 3-8-98	
Term	Rate
1-89 days	5.58%
3 months	5.33%
6 months	5.46%
9 months	5.47%
12 months	5.49%
18 months	5.54%
24 months	5.55%

William E. Lewis
Chairman

Doc. No. 022093

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. Duke Energy Field Services has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install a new gas compressor engine. Emissions of nitrogen oxides, carbon monoxide and volatile organic compounds were evaluated during the permit review process.

Duke Energy Field Services, Denver, Colorado, owns and operates the stationary source located at Section 1, Township 32 South, Range 42 West in Morton County, Kansas, at which the compressor engine is to be installed.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE southwest district office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact Shawn Howell, (785) 296-1993, at the KDHE central office, or Wayne Neese, (316) 225-0596, at the KDHE southwest district office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Shawn Howell, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business April 6.

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 April 6 in order for the Secretary of Health and Environment to consider the request.

Gary R. Mitchell
Secretary of Health and Environment

Doc. No. 022103

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 operating permit. Boehringer Ingelheim Vetmedica, Inc. has applied for a Class II operating permit in accordance with the provisions of K.A.R. 28-19-540. Emissions of volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) were evaluated during the permit review process. The purpose of a Class II permit is to limit the potential-to-emit for these pollutants to below major source thresholds.

Boehringer Ingelheim Vetmedica, Inc. owns and operates a pharmaceutical manufacturing facility located at 15th and Oak, Elwood.

A copy of the proposed permit, permit application, all supporting 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 David A. Peter, (785) 296-1615, at the KDHE central office, or Pat Simpson, (785) 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 David A. Peter, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business April 6.

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 April 6 in order for the Secretary of Health and Environment to consider the request.

Gary R. Mitchell
Secretary of Health and Environment

Doc. No. 022104

State of Kansas

Attorney General

Opinion No. 98-6

Personal and Real Property—Land and Water Recreational Areas; Recreational Trails—Duties of Responsible Party. Phillip C. Lacey, McPherson City Attorney, McPherson, February 9, 1998.

K.S.A. 1997 Supp. 58-3212 imposes requirements on the responsible party of a recreational trail which is created pursuant to subsection (d) of 16 U.S.C. § 1247 (1983). For purposes of K.S.A. 1997 Supp. 58-3212, what constitutes a fire hazard is a question of fact which should be determined by the State Fire Marshal and dealt with accordingly; a city who is the responsible party may meet its requirement to provide litter control and law enforcement by designating a county and county sheriff to comply with the duties; whether a landowner is entitled to a crossing depends on the use of the adjacent property and what is reasonably necessary depends on the facts; a responsible party may maintain an existing fence in due condition and if not repairable, the fence is not an existing fence; the responsible party's duty to pay one half of the cost of installing a fence cannot be enforced without the property owner's contracting with a fencing company, however, there is no requirement that the landowner pay all the costs up front; and the provision cannot be modified to authorize a city to annex any part of the trail. Additionally, the statutory language and purposes of K.S.A. 1997 Supp. 58-3215 indicate that the legislature intended to leave the question of an implied private cause of action for judicial interpretation if the remedy provided in the statute is ineffective; having made the finding of an ineffective remedy, a private cause of action is an appropriate remedy for adjacent landowners. Cited herein: K.S.A. 31-132; 31-143; K.S.A. 1997 Supp. 58-3211; 58-3212; 58-3215; 16 U.S.C. § 1247. GE

Opinion No. 98-7

Accountants, Certified Public—Licensure, Examination and Registration—Qualification for Certificate and Permit; Discipline of Certificate and Permit Holders from Other States. Representative Kent Glasscock, 62nd District, Manhattan, February 9, 1998.

The Kansas Legislature may enact appropriate legislation that grants a privilege to practice public accountancy in Kansas to an individual with a certificate or permit to practice issued by another state, and that authorizes the Kansas State Board of Accountancy to regulate and take disciplinary action, including revoking or suspending the privilege to practice public accountancy in this state, against such individual regardless whether the board issues a certificate or permit. Cited herein: K.S.A. 8-236; 8-251; 8-1420; 8-1441. MF

Opinion No. 98-8

Education; General Provisions Concerning Education—General Requirements and Conditions Concerning Operation and Administration of Education Programs; General Authority of Secretary; Administra-

tion; Records; Privacy; Limitation on Withholding Federal Funds; Family Educational and Privacy Rights.

State Boards, Commissions and Authorities—State Board of Regents—Regulation and Control of Traffic and Parking at State Educational Institutions. Representative Ralph Tanner, 10th District, Baldwin, February 9, 1998.

The federal Family Educational Rights and Privacy Act, FERPA, requires covered universities to keep education records confidential. Law enforcement records are exempt from FERPA confidentiality requirements, while disciplinary records are subject to those requirements. Whether student parking tickets are law enforcement records or disciplinary records depends on the facts. Cited herein: K.S.A. 1997 Supp. 74-3409; K.S.A. 74-3219; 75-4506, 74-4508; 20 U.S.C.A. § 1232g (Supp. 1997); 34 C.F.R. § 99. SP

Opinion No. 98-9

Personal and Real Property—Land and Water Recreational Areas; Recreational Trails—Duties of Responsible Party. John B. Klenda, McPherson County Counselor, McPherson, February 9, 1998.

K.S.A. 1997 Supp. 58-3212 imposes requirements on the responsible party of a recreational trail created pursuant to subsection (d) of 16 U.S.C. § 1247 (1983). The requirements are interpreted herein in the context of nine specific questions. Cited herein: K.S.A. 2-1314; K.S.A. 1997 Supp. 58-3211; 58-3212; 58-3215; 16 U.S.C. § 1247. GE

Opinion No. 98-10

Public Health—Secretary of Health and Environment, Activities—Water Supply and Sewage; Prevention of Water Pollution; Confined Feeding Facilities. Representative Joann Flower, 47th District, Oskaloosa, February 20, 1998.

The Takings Clause of the Fifth Amendment to the United States Constitution prohibits the government from taking private property for public use without just compensation. A moratorium on new water pollution control permits for new confined feeding facilities would not effect a compensable taking pursuant to the *per se* category of invasive takings, which are those governmental regulations that compel the property owner to suffer a physical invasion of his property. Nor does it appear that a moratorium on new water pollution control permits for new confined feeding facilities would constitute a compensable taking pursuant to the *per se* category of economic takings, which are those governmental regulations that ban all economically beneficial uses of land. Whether such a moratorium would result in a compensable taking for failure to substantially advance a legitimate state interest depends on (1) the nature of the governmental action, (2) the severity of the economic impact on the affected property owner, and (3) the degree of interference with the affected property owner's reasonable investment-backed expectations. Cited herein: U.S. Const., Amends. V and XIV; K.S.A. 1997 Supp. 65-171d; K.A.R. 28-18-2; 28-18-3. CN

Opinion No. 98-11

Cities and Municipalities—Insurance; Group-Funded Liability Pools—Certificate of Authority Granted on

Perpetual Basis; Examinations; Submission of Financial Statement and Reports; Suspension of Certificate, Grounds, Hearing; Revocation; Dissolution or Injunction of Pool. Representative Kenny A. Wilk, 42nd District, Lansing, February 20, 1998.

Current law authorizes the Commissioner of Insurance to regulate group-funded municipal pools as specified by statute, but does not authorize her to order that those pools assess members to eliminate deficits. Cited herein: K.S.A. 12-2616; 12-2618; 12-2620; K.S.A. 1997 Supp. 12-2621; K.S.A. 12-2623; 12-2624; 12-2627; 12-2629; 40-222b; 40-3605. GE

Carla J. Stovall
Attorney General

Doc. No. 022110

**State of Kansas
State Corporation Commission
Notice of Motor Carrier Hearings**

The following motor carriers have filed various applications and are scheduled for hearing at 9:30 a.m. March 24 before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. All applications listed herein are for statewide authority, unless otherwise stated. This list does not include cases which have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. The presiding officer for these matters is Dan Riley, Assistant General Counsel, (785) 271-3159. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

Application for Certificate of Public Service:

Blue Moon Express, Inc., 32000 W. 21st North, Garden Plain, KS 67050; MC ID No. 155622; General commodities (except household goods and hazardous materials).

David L. Boyles, dba Four B Trucking, Route 1, Box 79, Litchfield, NE 68852; MC ID No. 153546; Grain and salt.

Brisk Transportation, Inc., 8500 Kenworth Ave., Dallas, TX 75247; MC ID No. 111273; General commodities (except household goods and hazardous materials).

Corporate Express Delivery Systems - Expedited, Inc., 511 N. Belmont, Kansas City, MO 64123; MC ID No. 156141; William Parker, Attorney; General commodities (except household goods, Classes A and B explosives, poison gas, highway quantity controlled radioactive materials.)

Dynamex Operations East, Inc., dba One Hour Delivery, 1431 Greenway Drive, Suite 345, Irving, TX 75038; MC ID No. 223520; Joseph Weiler, Attorney; General commodities (except Classes A and B explosives, household goods and hazardous materials).

Peter G. Klaus, dba Victory Oil, 726 I-70 Road, Russell, KS 67665; MC ID No. 155404; General commodities (except household goods).

John R. (Randy) and Janis Malin, dba Malin Farms, Route 1, Box 139, Liberal, KS 67901; MC ID No. 153673; General commodities (except household goods and hazardous materials).

Donald L. Patrick, dba Patrick Cattle, 23199 Evans Road, Tonganoxie, KS 66086; MC ID No. 155413; General commodities (except household goods and hazardous materials).

R & S Transportation, Inc., South 281 Highway, Great Bend, KS 67530; MC ID No. 156140; General commodities (except household goods and hazardous materials).

Maurice L. Roberts, dba Roberts Seeds, 5641 E. Mariposa Road, New Cambria, KS 67470; MC ID No. 155637; General commodities (except household goods and hazardous materials).

Robert E. Rork, dba Rork Farms Trucking, 1730 2nd Ave. West, Horton, KS 66439; MC ID No. 155672; General commodities (except household goods).

Zonaker Bros., Inc., 1518 S. Avery, Plevna, KS 67568; MC ID No. 155412; General commodities (except household goods and hazardous materials).

Application for Extension of Certificate of Public Service:

Hertel Tank Service, Inc., 704 E. 12th, Hays, KS 67601, MC ID No. 121128; General commodities (except household goods and hazardous materials).

Quality Feed & Fertilizer, Inc., Route 4, Box 88, Galva, KS 67443; MC ID No. 152344; Clyde Christey, Attorney; General commodities including hazardous materials (except household goods).

Duane E. Shuck, dba Shuck Trucking, 206 Walnut, Overbrook, KS 66524; MC ID No. 151456; General commodities (except household goods and Classes A and B explosives).

Application for Extension of Certificate of Convenience and Necessity:

Topeka Transfer & Storage, Inc., 1650 S.W. 41st, Topeka, KS 66609; MC ID No. 100059; General commodities (except hazardous materials).

Application for Transfer of Certificate of Convenience and Necessity:

Kansas Van & Storage Co., Inc., 1600 S.W. 41st, Topeka, KS 66609, MC ID No. 100070, to: Kansas Van and Storage-Criqui Corp., 1600 S.W. 41st, Topeka, KS 66609; Household goods.

Application for Transfer of Public Service:

Charles, Delton and Doyle Robison, dba Robison Farms Trucking, Route 1, Box 505, Scandia, KS 66966, MC ID No. 150855, to: Robison Farms, Inc., Route 1, Box 505, Scandia, KS 66966; General commodities (except household goods, Classes A and B explosives and hazardous materials).

Application for Name Change of Certificate of Public Service:

Scurlock Permian Corporation, 333 Clay, Suite 2900, Houston, TX 77002, MC ID No. 100207, to: Scurlock Permian LLC, 333 Clay, Suite 2900, Houston, TX 77002; Crude oil, crude oil used in and for production, processing, treating, salvage, construction and for lease road purposes, in bulk, fresh water and salt water.

Don Carlile
Administrator
Transportation Division

Doc. No. 022107

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
 Old Sedgwick County Courthouse
 510 N. Main, 3rd Floor
 Wichita, Kansas

Before Royse, P.J.; Rogg, S.J.; and James J. Noone, D.J., Retired, assigned.

Tuesday, March 17, 1998

9:30 a.m.

Case No.	Case Name	Attorneys	County
78,054	Koss Construction Co., Appellant, v. Caterpillar, Inc., and Martin Tractor Co., Inc., Appellees.	Alvin D. Herrington John M. McFarland M. Duane Coyle	Sedgwick
77,004	State of Kansas, Appellee, v. Terl D. Martin, a/k/a Troy L. Miller, a/k/a David L. Church, a/k/a Dwayne Martin, a/k/a Terrell D. Martin, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Doyle Baker, Asst. D.A. Jessica R. Kunen, Chief A.D. Thomas Jacquinet, Asst. A.D.	Sedgwick

10:45 a.m.

77,442	Steven C. Hartman and Joyce K. Hartman, Husband and Wife, Appellants, v. Gray Construction, Inc., and Farmers Ins. Co., Inc., Appellees.	James R. Schaefer Craig Kennedy W. John Badke	Sedgwick
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1:30 p.m.

77,138	State of Kansas, Appellee, v. Demetria Karen O'Neal, Appellant.	Attorney General Thomas R. Stanton, Asst. C.A. Jessica R. Kunen, Chief A.D. Thomas W. Bartee, Asst. A.D.	Saline
76,448	State of Kansas, Appellee, v. Debra Crawford, a/k/a Debra Hills, Appellant.	Attorney General Thomas R. Stanton, Asst. C.A. Jessica R. Kunen, Chief A.D. Thomas W. Bartee, Asst. A.D.	Saline

3:00 p.m.

76,706	State of Kansas, Appellee, v. Patrick Smith, Appellant.	Attorney General Thomas R. Stanton, Asst. C.A. Jessica R. Kunen, Chief A.D. Michael J. Helvey, Asst. A.D.	Saline
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Wednesday, March 18, 1998

9:30 a.m.

Case No.	Case Name	Attorneys	County
76,746	State of Kansas, Appellee, v. Derrick C. Jackson, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Thomas J. Schultz, Asst. D.A. Jessica R. Kunen, Chief A.D. Alice A. Craig, Asst. A.D.	Sedgwick

76,851	State of Kansas, Appellee, v. Tommie T. Johnson, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Elizabeth Rogers, Asst. D.A. Jessica R. Kunen, Chief A.D. Rick Kittel, Asst. A.D.	Sedgwick
10:45 a.m.			
79,983	In the Interest of C.W.B., dob: 11/11/88; and B.L.P., dob: 12/14/91; Children in Need of Care.	James D. Harty Wendy A. Axton, Asst. C.A. Edward D. Embers	McPherson
Summary Calendar—No Oral Argument			
77,207	Dan E. Allen, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Mike Ward, C.A.	Butler
80,030	Kevin Giese, Appellant, v. Kansas Parole Board, Appellee.	Kevin R. Giese, Pro Se James W. Coder, Asst. A.G.	Reno
78,433	State of Kansas, Appellee, v. James C. Emery, Appellant.	Attorney General Morgan Metcalf, Deputy C.A. Jessica R. Kunen, Chief A.D.	Butler
80,165	Jerry Trotter, Appellant, v. Kansas Parole Board and Members, Appellees.	Steven C. Sherwood Hskingkan Chiang, Asst. A.G.	Butler
78,754	State of Kansas, Appellee, v. David R. Brown, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Roger L. Falk Jon E. Newman	Sedgwick
80,166	Francisco Montano, Appellant, v. Kansas Parole Board, Appellee.	Steven C. Sherwood Hskingkan Chiang, Asst. A.G.	Butler
77,997	State of Kansas, Appellee, v. Robert E. Philippi, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D.	Johnson
77,507	State of Kansas, Appellee, v. Erick Garay, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D.	Wyandotte

**Kansas Court of Appeals
Crawford County Courthouse
Girard, Kansas**

Before Knudson, P.J.; Green, J.; and Steven R. Becker, D.J., assigned.

Tuesday, March 17, 1998

9:30 a.m.

Case No.	Case Name	Attorneys	County
78,031	In the Matter of the Guardianship and Conservatorship of Patricia Ann Franklin, v. St. Paul Fire & Marine Ins. Co., Appellant, v. Confederation Life Insurance and Annuity Co., Garnishee, Appellee, James M. Franklin, Debtor.	Lloyd S. Hellman William J. Kelly Glenn E. Casebeer II Jeffrey A. Chubb Michael W. Hassenplug Douglas G. Ott Hans A. Spakovsky	Montgomery

(continued)

76,717	State of Kansas, Appellee, v. Willard E. Grooms, Appellant.	Attorney General Julie E. Richey, Asst. C.A. Louie L. Barney	Crawford
10:45 a.m.			
77,548	George Hutchison, Appellee, v. Hartford Insurance Company, and ITT Hartford Accident and Indemnity, Appellants, and Kansas Workers Compensation Fund, Appellee.	David J. Bideau Carlton W. Kennard Steven C. Alberg	Work Comp
1:30 p.m.			
76,377	State of Kansas, Appellee, v. Bobby Joe Gray, Appellant.	Attorney General John L. Swarts III, C.A. Jessica R. Kunen, Chief A.D. Steven Chapman, Asst. A.D.	Bourbon
79,775	State of Kansas, Appellant, v. Steven M. True, Appellee.	Attorney General John L. Swarts III, C.A. Charles Gentry	Bourbon
2:45 p.m.			
77,522	In the Matter of the Equalization Appeals of Total Petroleum, Inc., for the Year 1993 and 1994 in Cowley County, Kansas, and In the Matter of the Protest of Total Petroleum, Inc. for Taxes Paid for the Year 1993 in Cowley County, Kansas.	Lyndon W. Vix Timothy P. O'Sullivan Benjamin J. Neill	Cowley

Wednesday, March 18, 1998

9:30 a.m.

Case No.	Case Name	Attorneys	County
77,533	Howard S. Homer, Appellee, v. Muller Construction Co., and Aetna Casualty & Surety Co., Appellants, and Logan & Company and United Fire & Casualty Co., Appellees.	Mark A. Buck James B. Biggs Kendall R. Cunningham David L. McLane	Work Comp
77,736	Nancy Walker, Appellant, v. Ronald E. Walker, Appellee.	Bill Wachter Douglas G. Ott	Wilson
10:45 a.m.			
78,071	James L. Williams, Trustee of James L. Williams and Jackie F. Williams Living Trust Dated February 19, 1992; and Scott A. Williams, Appellees, v. Earl E. Deal, Jr. and Linda S. Deal, Husband and Wife, Appellants.	David A. Brace William N. Lacy	Wilson

Summary Calendar—No Oral Argument

77,525	State of Kansas, Appellee, v. Paula K. Ellis, Appellant.	Attorney General Bryan M. Hastert, Deputy C.A. Jessica R. Kunen, Chief A.D.	Franklin
78,089	Raymundo Garcia, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Tamara S. Hicks, Asst. C.A.	Finney

76,683	State of Kansas, Appellee, v. Victor Kiister, Appellant.	Attorney General Linus A. Thuston, C.A. Jessica R. Kunen, Chief A.D.	Neosho
78,936	State of Kansas, Appellee, v. David R. Gardner, Appellant.	Attorney General Cline I. Boone, Asst. C.A. Carl E. Cornwell	Bourbon
78,129	State of Kansas, Appellee, v. Thomas J. Jaimez, Appellant.	Attorney General Ann L. Smith, Special Asst. C.A. Jessica R. Kunen, Chief A.D.	Montgomery
78,463	State of Kansas, Appellee, v. Randy A. Brannon, Appellant.	Attorney General Clinton B. Peterson, Asst. C.A. Jessica R. Kunen, Chief A.D.	Seward
78,249	Clarence Wolfe, Jr., Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General County Attorney	Butler
78,217	State of Kansas, Appellee, v. Christopher D. Bryant, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick

**Kansas Court of Appeals
Kansas Judicial Center
Court of Appeals Courtroom, 2nd Floor
301 S.W. 10th Ave.
Topeka, Kansas**

Before Brazil, C.J.; Elliott and Gernon, JJ.

Wednesday, March 18, 1998

9:00 a.m.

Case No.	Case Name	Attorneys	County
77,292	State of Kansas, Appellee, v. Jonathan B. Phelps, Appellant.	Attorney General Joel W. Meinecke, Asst. D.A. Margie J. Phelps Chris R. Davis	Shawnee
76,833	State of Kansas, Appellee, v. Tyrone L. Hutcherson, Appellant.	Attorney General Tony W. Rues, Asst. D.A. Jessica R. Kunen, Chief A.D. Rebecca E. Woodman, Asst. A.D.	Shawnee
79,650	In the Matter of R.A.D., dob: 09/20/80, a Juvenile Under the Age of 18 Years.	Carl A. Gallagher David L. Miller, C.A.	Miami

10:45 a.m.

77,523	Lakeview Village, Inc., Appellee, v. Board of County Commissioners of Johnson Co., KS, Appellant.	Robert J. O'Connor David M. Cooper, Asst. County Counselor Donald D. Jarrett	Shawnee
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1:15 p.m.

75,922 77,722	State of Kansas, Appellee, v. Patricia Howard, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. Jessica R. Kunen, Chief A.D. Craig Durham, Asst. A.D.	Johnson
77,114	State of Kansas, Appellee, v. Charles H. Hale, Appellant.	Attorney General Steven J. Obermeier, Asst. D.A. James T. George	Johnson

(continued)

77,847	Robert Crimmins, Harvey Wollenberg, Earl Kruse, Leo Jueneman and Loren H. Mueller, Appellants, v. Horseshoe Creek Watershed Joint District No. 110 of Marshall and Washington Counties, Kansas, and Richard Schotte, President, and Norbert Klipp, Secretary, Appellees.	Edward S. Dunn Edward F. Wiegers	Washington
3:00 p.m.			
78,123	Eric Neuburger, Appellant, v. Amre, Inc., and National Union Fire Ins. Co., Appellees, and Workers Compensation Fund.	Scott M. Price Brian G. Boos Robert L. Kennedy	Work Comp
77,980	Medicalodges, Inc., Appellant, v. The City of Clay Center, Kansas; and Liberty Square, Inc., a Kansas Not for Profit Corp., Appellees.	Greg A. Bengtson Thomas R. Buchanan Donna J. Long Michael W. Ryan	Clay
Summary Calendar—No Oral Argument			
77,772	State of Kansas, Appellee, v. Melvin E. Trautloff, Jr., Appellant.	Attorney General Joe E. Lee, C.A. Jessica R. Kunen, Chief A.D.	Lyon
79,942	In the Interest of J.N., a Minor Child, dob: 09/21/95, A Male Under the Age of 18 Years, and B.N., a Minor Child, dob: 02/24/94, A Male Under the Age of 18 Years.	Deborah A. Huth Jeffry J. Larson County Attorney	Lyon
78,059	State of Kansas, Appellee, v. Jason M. Slattery, Appellant.	Attorney General Joe E. Lee, C.A. Steven L. Davis	Lyon
78,848	In the Matter of the Marriage of La Donna Lee, Appellee, and Richard D. Lee II, Appellant.	Gregory E. Skinner Betty Wright Terry E. Beck	Shawnee
78,451	Nathaniel Carroll, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Kenneth J. Morton, Asst. D.A.	Shawnee
78,702	Ernest Wayne Vanaman, Appellant, v. Blue Goose Drilling Co., and U.S.F. & G., Appellees.	Ernest Wayne Vanaman, Pro Se Billy E. Newman	Work Comp
78,896	State of Kansas, Appellee, v. John Hees, a/k/a John Hess, Appellant.	Jessica R. Kunen, Chief A.D. Attorney General District Attorney	Johnson
79,179	State of Kansas, Appellee, v. Edmond D. Shearhart, Appellant.	Jessica R. Kunen, Chief A.D. Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
79,313 79,314	State of Kansas, Appellee, v. Kevin Russell Drum, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	Reno
78,843 78,870	State of Kansas, Appellee, v. James R. Wilson, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	Geary

Kansas Court of Appeals
 Old County Courthouse
 Commission Meeting Room, 2nd Floor
 1100 Massachusetts
 Lawrence, Kansas

Before Rulon, P.J.; Wahl, S.J.; and Edward Bouker, D.J., assigned.
 Wednesday, March 18, 1998

9:00 a.m.

Case No.	Case Name	Attorneys	County
77,955	Richard L. Gibson and Ruie A. Gibson, Appellants, v. Ross A. Burd, d/b/a Goldstone Golden Retrievers, Appellee.	David R. Barlow Robyn M. Butler	Johnson
77,440	In the Matter of the Marriage of Jennifer J. Breidenthal, Appellee, and George G. Breidenthal, Appellant.	David J. Waxse David W. Boal	Wyandotte

10:45 a.m.

78,046	Gary F. Juett, Heir at Law of Inez M. Juett, Deceased, and Gary F. Juett, Administrator of the Estate of Inez M. Juett, Deceased, Appellant, v. Galen of Kansas, et al., Appellees.	Kristopher A. Kuehn M. Warren McCamish Hal D. Meltzer Ronald L. Schneider Jerry K. Levy	Johnson
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1:30 p.m.

78,153	Charlton Walker, Appellee, v. Systems Material Handling Co., Inc., and Liberty Mutual Ins. Co., Appellants.	John G. O'Connor James K. Blickhan Stephanie Warmund	Work Comp
77,653	In the Matter of the Marriage of Ann Christine Rau, Appellee, and William Edward Rau, Appellant.	Keith C. Sevedge Karen L. Shelor William E. Rau, pro se	Johnson

2:45 p.m.

77,517	Pamela Lowdermilk, Appellee, v. American Family Mutual Insurance Co., Appellant.	Richard T. Merker Lawrence P. Warshaw John E. Franke	Wyandotte
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Thursday, March 19, 1998

9:00 a.m.

Case No.	Case Name	Attorneys	County
77,832	State of Kansas, Appellee, v. Sabrina Way-Riggins, Appellant.	Attorney General Dionne M. Scherff, Asst. D.A. Jessica R. Kunen, Chief A.D. Ryan Kipling Elliot, Asst. A.D.	Wyandotte
78,078	State of Kansas, Appellee, v. Glenn L. Richardson, Appellant.	Attorney General Sherri Price, Asst. D.A. Jessica R. Kunen, Chief A.D. Hazel Haupt, Asst. A.D.	Wyandotte

(continued)

10:15 a.m.

77,023	State of Kansas, Appellee, v. Ernest L. King, a/k/a Ernest L. Nash, Appellant.	Attorney General Jerome A. Gorman, Asst. D.A. Jessica R. Kunen, Chief A.D. Thomas Jacquinet, Asst. A.D.	Wyandotte
Summary Calendar—No Oral Argument			
78,584	Thomas Oliver Flora, Appellee, v. David R. McKune, et al., Appellant.	Charles J. Cavenee Jeffrey L. Cowger	Leavenworth
78,849	In the Matter of R.A.	Philip R. Sedgwick Victoria S. Meyer, Asst. D.A.	Wyandotte
78,286	In the Matter of the Marriage of Sheila Ann Kellerman, Appellee, and Kevin Mark Kellerman, Appellant.	Joseph L. Dioszeghy Michael W. Laster	Johnson
79,518	In the Interest of A.R.S., dob: 04/05/89; and C.R.O., dob: 10/12/82.	Timothy J. Arehart John C. Fritz, Asst. D.A. Randy R. McCalla	Johnson
78,363	State of Kansas, Appellee, v. Robert Taylor, Appellant.	Attorney General Matthew J. Bock, Asst. D.A. Jessica R. Kunen, Chief A.D. Debra J. Wilson, Asst. A.D.	Wyandotte
79,719	In the Interest of C.A., dob: 04/04/93; C.S., dob: 06/10/94; and T.A., dob: 11/28/95.	Jeffrey A. Dehon Debera A. Erickson Sheryl A. Bussell, Asst. D.A.	Wyandotte
79,137	State of Kansas, Appellee, v. Pablo Rodriguez, Appellant.	Attorney General District Attorney Jessica R. Kunen, Chief A.D.	Johnson
79,315	State of Kansas, Appellee, v. Leroy Fields, Appellant.	Attorney General County Attorney Jessica R. Kunen, Chief A.D.	McPherson

Carol G. Green
Clerk of the Appellate Courts

Doc. No. 022069

State of Kansas**Real Estate Appraisal Board****Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 10 a.m. Friday, June 5, in the second floor conference room of the Columbian Title Building, 820 S. Quincy, Topeka, to consider the adoption of amendments to regulation 117-8-1 on both a permanent and a temporary basis.

This 60-day notice of public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulation. All interested parties may submit written comments prior to the hearing to the Kansas Real Estate Appraisal Board, Columbian Title Building, 820 S. Quincy, Suite 314, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Michael Haynes at (785) 296-0706.

A summary of the proposed amendments to the regulation and its economic impact follows:

K.A.R. 117-8-1. Uniform standards of professional appraisal practice. The amendment is proposed so the board can adopt by reference the current edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. There would be no additional costs to appraisers, the public or state agencies.

Copies of the regulation and its economic impact statement may be obtained from the Kansas Real Estate Appraisal Board.

Michael K. Haynes
Director

Doc. No. 022106

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, Landon State Office Building, 900 S.W. Jackson, Room 102, Topeka, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Tuesday, March 10, 1998

7118-Rebid

Kansas Insurance Department—AS/400 computer system enhancement

Monday, March 16, 1998

31123-Rebid Group 6

Statewide—Upholstery materials and foam
32973

Statewide—Hand tools and miscellaneous hardware
32989

Statewide—Specialized laboratory chemicals
32990

Statewide—Radiochemicals
32993

Statewide—Electric powered hand tools
7243

Department of Transportation—Portable air compressor, various locations
7244

Department of Health and Environment—Minivan
7246

Department of Transportation—Large format copier
Tuesday, March 17, 1998
32969

Emporia State University—Interior-exterior painting and surface remodeling
32974

Department of Transportation—Aggregate (District 4)
7248

University of Kansas Medical Center—Microsurgeon's chair, otologic ear drill system
7249

University of Kansas—Refrigerator/freezers
Wednesday, March 18, 1998
32971

University of Kansas Medical Center—Medical gases (Class 04)
32972

Department of Transportation—Bituminous plant mix (District 1)
7253

Kansas Highway Patrol—Gloves and raincoats, Salina
7255

Kansas Correctional Industries—Liquid containers
7256

Kansas Department of Wildlife and Parks—Fish food, various locations

Thursday, March 19, 1998

32991

Department of Corrections—Refuse collection services, El Dorado

7251

University of Kansas—Paper, printing and binding, 1998 fall catalog

Friday, March 20, 1998

32992

Department of Administration, Self Insurance Fund—Actuarial services to assure appropriate funding

Friday, March 27, 1998

A-8474

University of Kansas—Reroof Buildings A, B and D, Jayhawk Towers

John T. Houlihan
Director of Purchases

Doc. No. 022109

State of Kansas

Board of Healing Arts

**Permanent Administrative
Regulations**

Article 23.—TREATMENT OF OBESITY

100-23-1. Treatment of obesity. A person shall not dispense or prescribe controlled substances to treat obesity, as defined by this regulation, except in conformity with the following minimal requirements. (a) Amphetamines shall not be dispensed or prescribed to treat obesity.

(b) The treating physician shall personally examine the patient. The physical examination shall include checking the blood pressure and pulse, examining the heart and lungs, recording weight and height, and administering any other appropriate diagnostic tests. The examination and patient history shall determine if controlled substances are indicated and if any co-morbidity exists. The treating physician shall enter each of these findings in the patient's record.

(c) The treating physician shall prescribe nutritional counseling, including behavior modification and appropriate exercise for weight loss, and record these parameters on the patient record.

(d) The treating physician shall not dispense or prescribe more than a 30-day supply of controlled substances, at one time, to treat obesity.

(e) Except as provided by subsection (f) of this regulation, the treating physician may continuously dispense or prescribe controlled substances to treat obesity when the physician observes and records that the patient significantly benefits from the controlled substances and has no serious adverse effects related to the drug regimen. A patient significantly benefits from the controlled substances when weight is reduced, or when weight loss is maintained and any existing co-morbidity is reduced. At the time of each return patient visit, the treating physician shall monitor progress of the patient; the treating physician or a person acting at the treating physician's order

(continued)

shall check the patient's weight, blood pressure, pulse, heart, and lungs. The findings shall be entered in the patient's record.

(f) The treating physician shall not dispense or prescribe additional controlled substances to treat obesity for a patient who has not achieved a weight loss of at least 5% of the patient's initial weight, during the initial 90 days of treatment using controlled substances to treat obesity.

(g) As used in this regulation, the term "controlled substance" means any drug included in any schedule of the Kansas uniform controlled substances act.

(h) As used in this regulation, the term "obesity" means a documented diagnosis of excess adipose tissue, resulting in body mass index of 30 or higher ($BMI \geq 30 \text{ kg/m}^2$), or a body mass index of 27 or higher in the presence of other risk factors ($BMI \geq 27 \text{ kg/m}^2$). Body mass index is calculated by dividing measured body weight in kilograms by body height in meters squared (kg/m^2); expected body mass index is 20-25 kg/m^2 . (Authorized by and implementing K.S.A. 1997 Supp. 65-2837a; effective, T-86-25, July 24, 1985; effective May 1, 1986; amended, T-100-12-16-96, Dec. 16, 1996; amended May 9, 1997; amended, T-100-7-1-97, July 1, 1997; amended, T-100-10-30-97, Oct. 30, 1997; amended March 20, 1998.)

Lawrence T. Buening, Jr.
Executive Director

Doc. No. 022102

State of Kansas

Social and Rehabilitation Services

Permanent Administrative Regulations

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

30-5-300. Definitions. (a) The following words and terms for home- and community-based services (HCBS), when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

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

(2) "Activities of daily living (ADLs)" means the following:

- (A) bathing;
- (B) dressing;
- (C) toileting;
- (D) transferring;
- (E) ambulating; and
- (F) eating.

(3) "Agency" means the Kansas department of social and rehabilitation services.

(4) "Area agency on aging" means the agency or organization within a planning and service area that has been designated by the secretary of the Kansas department on aging (KDOA) to develop, implement, and administer a plan for the delivery of a comprehensive and coordinated system of services to older persons in the planning and service area.

(5) "Assessment" means the face-to-face interview and evaluation of a home- and community-based services consumer by an authorized case manager, assessor, or independent living counselor to determine the consumer's care needs and support systems and to develop a service plan.

(6) "Case management services" means a comprehensive service comprised of a variety of specific tasks and activities designed to coordinate and integrate all other services required in the individual's plan of care.

(7) "Client obligation" means the monthly amount collected from an HCBS consumer by the service provider for the cost of a service.

(8) "Conflict of interest" means any relationship between two or more parties in which one party has the ability to influence another party to the transaction in a way that one or more of the transacting parties might fail to fully pursue the party's or parties' own separate interests. Related parties shall include parties related by family, business, or financial association, or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arm's-length negotiations. Transactions or agreements that are illusory or a sham shall not be recognized.

(9) "Cost cap" means the average HCBS monthly service cost limit per consumer, including primary and acute care costs. The average HCBS monthly service cost limit shall be based on and compared to the average monthly cost that the consumer would incur in a nursing facility.

(10) "Cost efficient" means using all of the available formal and informal service systems to meet individual needs before using HCBS services.

(11) "Cost effective" means that the cost of utilizing a service is recovered by the savings generated from avoiding the necessary utilization of a more expensive service.

(12) "Direct cost" means any cost that can be identified specifically with a particular cost objective.

(13) "Documentation" means maintenance of the HCBS consumer's case file, which includes the following:

- (A) a current assessment or reassessment;
- (B) a plan of care;
- (C) a service plan;
- (D) an activity log; and
- (E) a financial eligibility communication form, including current client obligation information.

(14) "Effective date" means the date on which a program or service begins and on which a provider can be reimbursed for services.

(15) "Formal service" means any needed service as documented on the plan of care and funded by medicaid.

(16) "Frail elderly waiver" means a medicaid HCBS services waiver authorizing by and through the Kansas department on aging services in accordance with a federally approved waiver to the Kansas medicaid state plan for individuals age 65 and older who meet the medicaid long-term care threshold.

(17) "Home health aide service" means the direct care provided by a person with minimum training to consumers who are unable to care for themselves or who need assistance in accomplishing the activities of daily living. The home health aide service direct care provider shall be under the supervision of a registered nurse employed by a home health agency.

(18) "Home health agency" means a public or private agency or organization that provides, for a fee, one or more home health services at the residence of a consumer.

(19) "Housing options" means all home and residential environments in which individuals would be eligible to receive HCBS services.

(20) "Instrumental activities of daily living (IADL's)" means the following:

- (A) meal preparation;
- (B) shopping;
- (C) medication monitoring and treatments;
- (D) laundry and housekeeping;
- (E) money management;
- (F) telephone use; and
- (G) transportation.

(21) "Independent living center" means a public or private agency or organization recognized by the agency whose primary function is to provide independent living services, including the following:

- (A) independent living skills training;
- (B) advocacy;
- (C) peer counseling; and
- (D) information and referral.

(22) "Independent living counseling" means a service provided through the HCBS/PD waiver that assesses need, negotiates care plans and service plans, and teaches independent living skills.

(23) "Indirect costs" means the administrative costs of long-term care (LTC) programs or their functional components, including the costs of supplying goods, services, and facilities to those programs or their functional components.

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

(25) "Informal service" means any needed or desired service provided voluntarily to a consumer by one or more organizations, agencies, or families at no cost to the medicaid program.

(26) "Level of care" means functional needs of consumers, as determined through an assessment or reassessment, based on impairments in ADLs and IADLs.

(27) "Medicaid home- and community-based services (HCBS)" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan that are designed to prevent unnecessary utilization of services and to reduce health care related costs. Any individual with a primary diagnosis of mental illness, and who is 21 years of age or older, but less than 65 years old, shall not be eligible.

(28) "Medicaid home- and community-based services for persons with mental retardation or other developmental disabilities (HCBS/MRDD)" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan. These services shall be designed as alternatives to services otherwise provided in intermediate care facilities for the mentally retarded (ICF/MR) for individuals who have mental retardation or other developmental disabilities.

(29) "Medicaid home- and community-based services for persons with traumatic brain injury (HCBS/TBI)" means medicaid services that meet these requirements:

(A) are provided in accordance with a federally approved waiver to the Kansas medicaid state plan; and

(B) are designed as an alternative to services in brain injury rehabilitation facilities for individuals who meet these requirements:

- (i) have external, traumatic brain injuries; and
- (ii) are 18 years of age or older, but are less than 55 years of age.

(30) "Medicaid long-term care threshold" means the level of care criteria, as established by the agency and approved in the waiver to the medicaid state plan for HCBS, that is used to determine eligibility for medicaid long-term care programs.

(31) "Nursing facility (NF)" means a facility that meets these criteria:

- (A) meets state licensure standards;
- (B) provides health-related care and services, prescribed by a physician; and

(C) provides residents with 24 hours per day, seven days per week, licensed nursing supervision for ongoing observation, treatment, or care for long-term illness or injury.

(32) "Normal rhythms of the day" means the average time frame in which an individual without a physical disability typically completes clusters of ADL and IADL activities.

(33) "Organized health care delivery system" means a system, at least one component of which is organized for the purpose of delivering health care, that furnishes at least one service under a medicaid-covered waiver or the state plan.

(34) "Other developmental disability" means a condition or illness that meets these requirements:

- (A) is manifested before age 22;
- (B) may reasonably be expected to continue indefinitely;

(C) results in substantial limitations in any three or more of the following areas of life functioning:

- (i) self-care;
- (ii) understanding and the use of language;
- (iii) learning and adapting;
- (iv) mobility;
- (v) self-direction in setting goals and undertaking activities to accomplish those goals;
- (vi) living independently; or
- (vii) economic self-sufficiency; and

(D) reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of extended or lifelong duration and are individually planned and coordinated.

(35) "Physical disabilities waiver" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan for any individual who meets these requirements:

(A) is 16 years of age or older, but less than 65 years of age;

(B) is physically disabled according to social security disability standards;

(C) meets the medicaid LTC threshold; and

(D) requires assistance with normal rhythms of the day.

(36) "Plan of care (POC)" means a document that states and prescribes the responsibilities of providers to

(continued)

ensure that the providers meet the health and safety needs of HCBS consumers. The document shall include the following information:

- (A) a statement identifying the need for care;
- (B) the estimated length of the service or program;
- (C) a description of the prescribed treatment, modalities, and methodology to be used;
- (D) a description of the expected results;
- (E) the name of provider; and
- (F) the cost of the program or services.

(37) "Prior authorization" means that a service to be provided shall be reimbursed only when approval is given by the agency before the service is provided.

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

(39) "Provider enrollment" means the process through which the agency determines whether or not an applicant meets the requirements for persons or agencies to provide services to the medicaid program.

(40) "Reassessment" means an annual review and evaluation of an HCBS consumer's continued need for services.

(41) "Reimbursement rate" means the dollar value assigned by the secretary for a covered service.

(42) "Risk factor" means any condition that may increase an individual's functional impairment. The risk factor is used to determine needs for services, as appropriate for the individual's level of care.

(43) "Self-directed care" means an option under the HCBS program that allows an individual in need of care to live in a home environment and direct the attendant services that are essential to the maintenance of the individual's health and safety.

(44) "Service plan" means a document that describes specific tasks to be performed, based on the needs of the consumer. The description shall include the type of service, the frequency, and the provider.

(45) "Severe emotional disturbance waiver" means services provided in accordance with a federally approved waiver to the Kansas medicaid state plan for any individual who meets these requirements:

(A) is under 18 years of age or, if under 22 years of age, has received intensive community-based services for at least 12 months between the ages of 16 through 18, and intensive services have continued after 18 years of age to the date of the application for the waiver;

(B) meets the criteria for a severe emotional disturbance;

(C) meets the following severity index criteria:

(i) on a child behavior checklist (CBCL), a score of at least 75 on one subscale; and

(ii) on a child and adolescent functional assessment scale (CAFAS), an overall score of 100, or at least 30 for each of two subscales;

(D) according to clinical judgment, is in need of a state mental health hospital (SMHH); and

(E) was provided with a level of non-institutional community-based services as an alternative to SMHH before application for the waiver.

(46) "Technology-assisted child" means a chronically ill or medically fragile child who meets these requirements:

(A) is 17 years of age or younger;

(B) has an illness or disability that, in the absence of home care services, would require admission to or a prolonged stay in a hospital;

(C) needs both a medical device to compensate for the loss of a vital body function and substantial, continuous care by a nurse or other caretaker under the supervision of a nurse in order to avert death or further disability;

(D) is dependent at least part of each day on mechanical ventilators for survival; and

(E) requires prolonged intravenous administration of nutritional substances or drugs, or requires other medical devices to compensate for the loss of a vital body function.

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

(48) "Traumatic brain injury" means non-degenerative, structural brain damage resulting in residual deficits and disability that have been acquired by external physical injury.

(49) "Termination date" means the last day on which a program or service shall be reimbursed. For HCBS, this date shall not extend beyond the last date of medicaid eligibility.

(b) This regulation shall take effect on and after April 1, 1998. (Authorized by and implementing K.S.A. 39-708c; effective Jan. 1, 1997; amended July 1, 1997; amended, T-30-12-16-97, Jan. 1, 1998; amended April 1, 1998.)

30-5-310. Scope and reimbursement for home- and community-based services for persons with a severe emotional disturbance. (a) The scope of home- and community-based services for persons with a severe emotional disturbance shall consist of those services provided under the authority of the applicable federally approved model waiver to the Kansas medicaid state plan.

(b) Home- and community-based services shall be provided in accordance with an individualized, written plan of care approved by the Kansas department of social and rehabilitation services.

(c) Before the development of any plan to provide services, the need for services shall be determined through an individualized assessment of the prospective recipient made by a qualified assessor. A qualified assessor means a qualified mental health professional as defined in K.S.A. 59-2946, and amendments thereto.

(d) Services may include one or more of the following:

- (1) Respite care;
- (2) wraparound facilitation or community support;
- (3) independent living or skill building; and
- (4) parent support and training.

(e) Reimbursement for home- and community-based services for persons with a severe emotional disturbance shall be based upon reasonable fees as related to customary charges, except that no fee shall be paid in excess of the range maximum.

(f) This regulation shall take effect on and after April 1, 1998. (Authorized by and implementing K.S.A. 39-708c; effective, T-30-12-16-97, Jan. 1, 1998; effective April 1, 1998.)

Rochelle Chronister
Secretary of Social and
Rehabilitation Services

Doc. No. 022098

111-2-1	Amended	V. 16, p. 1807	111-4-66			111-4-362		
111-2-2	Amended	V. 12, p. 1261	through			through		
111-2-2a			111-4-77	New	V. 7, p. 207-209	111-4-365	Revoked	V. 12, p. 114, 115
through			111-4-96			through		
111-2-2e	New	V. 14, p. 1633, 1634	through			111-4-366		
111-2-4	Amended	V. 15, p. 1953	111-4-114	New	V. 7, p. 1606-1610	111-4-369	Revoked	V. 12, p. 1373
111-2-6	Revoked	V. 13, p. 149	111-4-100	Amended	V. 14, p. 972	111-4-370		
111-2-7	Revoked	V. 10, p. 1210	111-4-101			through		
111-2-13	Revoked	V. 10, p. 881	through			111-4-379	Revoked	V. 14, p. 7, 8
111-2-14	Amended	V. 14, p. 1634	111-4-106	Revoked	V. 16, p. 450	111-4-380		
111-2-15	Revoked	V. 10, p. 881	111-4-106a	Revoked	V. 16, p. 450	through		
111-2-16	Revoked	V. 10, p. 1210	111-4-107			111-4-383	Revoked	V. 12, p. 1664
111-2-17	Revoked	V. 10, p. 1210	through			111-4-384		
111-2-18	Revoked	V. 11, p. 413	111-4-114	Revoked	V. 16, p. 450, 451	through		
111-2-19	Revoked	V. 11, p. 413	111-4-153			111-4-387	Revoked	V. 12, p. 1373
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111-2-26	Revoked	V. 13, p. 1401	111-4-160	Revoked	V. 9, p. 1676, 1677	through		
111-2-27	Revoked	V. 14, p. 972	111-4-177			111-4-391	Revoked	V. 12, p. 1373
111-2-28	New	V. 12, p. 1844	through			111-4-392		
111-2-29	Revoked	V. 14, p. 972	111-4-212	Revoked	V. 9, p. 1677, 1678	through		
111-2-30	Amended	V. 15, p. 1180	111-4-213			111-4-400	Revoked	V. 16, p. 252
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111-2-32			111-4-220	Revoked	V. 10, p. 1213	through		
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111-2-46	New	V. 15, p. 624	111-4-228	Revoked	V. 10, p. 1585	through		
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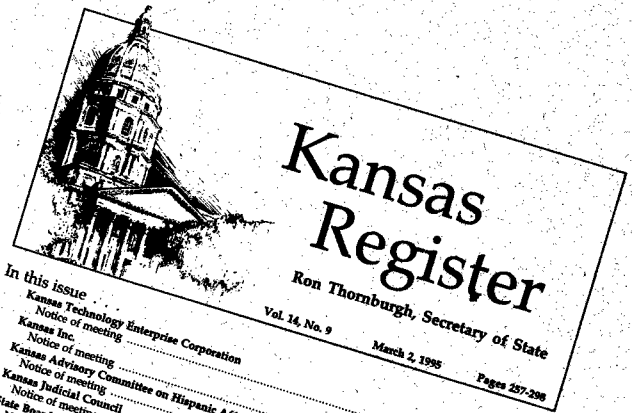
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